FEDERAL BUREAU OF INVESTIGATION

FREEDOM OF INFORMATION ACT (FOIA)

DELETED PAGE INFORMATION SHEET

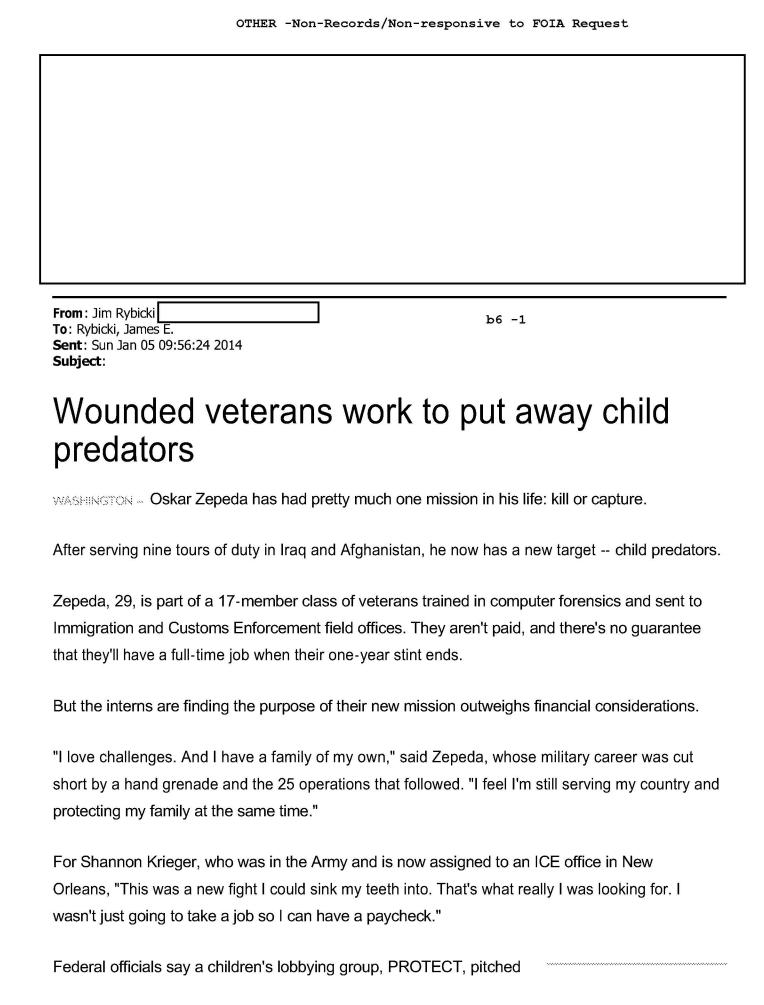
FOIA Request No.:1409143-000 Civil Action No.: 18-cv-1800

Total Withheld Page(s) = 70

Bates Page Reference	Reason for Withholding
	(i.e., exemptions with coded rationale, duplicate, sealed by order of court, etc.)
FBI(18-cv-1800)-566 thru FBI(18-cv-1800)-568	Duplicate to FBI(18-cv-1800)-444 thru FBI(18-cv-1800)-446
FBI(18-cv-1800)-582 thru FBI(18-cv-1800)-583	Referral/Consult
FBI(18-cv-1800)-600	Duplicate to FBI(18-cv-1800)-596
FBI(18-cv-1800)-615 thru FBI(18-cv-1800)-616	Referral/Consult
FBI(18-cv-1800)-625 thru FBI(18-cv-1800)-629	b5-1
FBI(18-cv-1800)-631 thru FBI(18-cv-1800)-635	b5-1
FBI(18-cv-1800)-644 thru FBI(18-cv-1800)-647	Referral/Consult
FBI(18-cv-1800)-654 thru FBI(18-cv-1800)-679	b5-1
FBI(18-cv-1800)-693 thru FBI(18-cv-1800)-698	Referral/Consult
FBI(18-cv-1800)-710 thru FBI(18-cv-1800)-711	b5-1
FBI(18-cv-1800)-738 thru FBI(18-cv-1800)-739	b5-2, 3
FBI(18-cv-1800)-743 thru FBI(18-cv-1800)-746	Referral/Consult
FBI(18-cv-1800)-788 thru FBI(18-cv-1800)-793	Duplicate to FBI(18-cv-1800)-376 thru FBI(18-cv-1800)-381
FBI(18-cv-1800)-887 thru FBI(18-cv-1800)-888	b6-1

- X Deleted Page(s) X
- X No Duplication Fee X
- X For this Page X

Rybicki, James E. (D	O) (FBI)	
From: Sent: To: Subject:	Rybicki, James E. (DO) (FBI) Friday, July 29, 2016 7:23 AM Rybicki RE: My Mobile email is down	
Copy. Please reboot	and I'll get the team on it ASAP.	
If you didn't get my e	-mails from last night, please call me for a couple of items	
From: Sent: Friday, July 29, 2 To: J Rybicki Subject: My Mobile e	Rybicki, James E. (DO) (FBI) <james.rybicki@ic.fbi.gov></james.rybicki@ic.fbi.gov>	b6 -1



the idea of incorporating wounded veterans in the fight against child pornography. ICE Special Agent Patrick Redling said the agency, where veterans account for 30 percent of the workforce, ran with the idea.

"They built their career upon fighting for this country and keeping citizens of this country safe," Redling said. "What better to get somebody already with that mindset into a program where it's

the street."

office.

"I feel I'm still serving my country and protecting my family at the same time."

- Oskar Zepeda

The agency relied on the U.S. Special Operations Command to get the word out to wounded service members transitioning out of the military or already separated. The veterans were given about 11 weeks of intensive computer and legal training before being assigned to an ICE field

another battlefield, very similar, but you're keeping our children safe. You're taking predators off

Even though they're not getting paid by ICE, the majority of those on the team are receiving disability compensation. Many also get a monthly stipend from the Department of Veterans Affairs for educational expenses.

In exchange, they're gaining expertise in computer forensics, a skill that's in high demand with law enforcement agencies, and one that should lend itself to job offers once the internship is completed.

In general, the veterans work in a lab and scour the computers and flash drives that agents in the field confiscate when conducting a search warrant. The veterans have two priorities: analyze the evidence to assist in the prosecution of a suspect, and help determine if there are children still in harm's way who need to be rescued.

The veterans also are called on to help agents carry out a search warrant. Zepeda said that's how he spent his first day on the job.

"We went on a raid and it was almost like I never left the Army," he said. "It was like, `I'm ready. Let's do it.""

When it comes to child pornography, a child is defined as any person under the age of 18. The

Department of Justice said 2,331 defendants were charged in federal court during the past fiscal year with producing, distributing or receiving child pornography. During the previous four years, the number of federal defendants charged with child pornography offenses ranged from 2,012 to 2,254.

The veterans say they've already seen what Krieger called the "real dark side of what humankind can do."

"I'm talking about young kids, 18-month olds, toddlers. This is some of the most horrible stuff I could conceive of imagining and I'm looking at it on a daily basis," Krieger said.

ICE Special Agent Brian Widener said part of the interview process was spelling out for the veterans the types of materials they would have to view. Each veteran was assigned someone who will check on them at least once a month to make sure they are doing OK. The veterans can call their case manager any time they find themselves needing to talk.

The veterans said their combat experience is proving to be an asset when it comes to dealing with the emotional toll of the job.

"I'm able to turn a lot of things off," Krieger said. "If I couldn't, I'd probably have gone crazy."

Zepeda said that, in his time in Iraq and Afghanistan, "I've seen it all. Trust me."

He said he tries not to think too much about what he sees on the job.

"You just move on," he said. "You know what you're seeing, but you're not getting personal with it."

Justin Gaernter, a Marine Corps combat engineer who lost both legs in Afghanistan serving as a lead sweeper for roadside bombs, said he had to think long and hard before taking the internship. He worried the work could make the mental aspects of his recovery more difficult.

In the end, he said the satisfaction of possibly saving a child's life or putting a child predator behind bars outweighed the negative considerations.

"My time got cut short in the service. I wanted to continue serving my country, and this was my way to do that," said Gaertner, 24, the youngest member of the group.

Jim Rybicki

From: Jim Rybicki

Sent: Sunday, February 16, 2014 6:43 PM

To: Rybicki, James E.

Subject: Acting ICE Director Sandweg resigns after five months on the job

The acting head of U.S. Immigration and Customs Enforcement, whose appointment to the post raised eyebrows because of his scant law enforcement experience, told agency employees he will resign Friday, FoxNews.com has learned.

John Sandweg, a former defense attorney who knew former Department of Homeland Security Secretary Janet Napolitano from their days as political allies in Arizona and came to Washington with her, gave his notice just six months after taking the reins in August. In a letter Friday to coworkers, Sandweg said he will return to work in the private sector but gave no explanation for his departure.

"Over the past several months I had the opportunity to work alongside many of you," he wrote. "I was always amazed by your dedication and commitment to the agency and our nation. Despite the challenges we face, you continue to push on, achieving remarkable security and public safety gains for our country."

Sandweg was named to the post amid concerns by congressional lawmakers and former agency officials that his background as a <u>criminal defense attorney</u> with no law enforcement experience made him unqualified to run the country's second-largest law enforcement agency.

"I am deeply disappointed by this appointment and believe it is disrespectful to the thousands of dedicated professionals at ICE who are working tirelessly to enforce our laws and provide for our security," Rep. John Carter, R-Texas, chairman of the House Homeland Security Appropriations Subcommittee, said at the time. "I urge the administration to rethink this appointment and promptly appoint a qualified, confirmable applicant for this essential post."

FoxNews.com first reported on Sandweg's history representing accused and convicted violent offenders while also fundraising for Napolitano, who was then the Democratic governor of Arizona and later became secretary of the Department of Homeland Security, which oversees ICE.

Lawmakers also said his appointment by Napolitano was an example of the agency's "blatant politicization."

Jeh Johnson, the newly confirmed secretary of Homeland Security, also sent an email to ICE employees on Friday announcing Sandweg's departure and thanking him for his service to the administration over the past five years.

"On a personal note I would like to thank John for his work as I learned about the department during my confirmation process," he wrote.

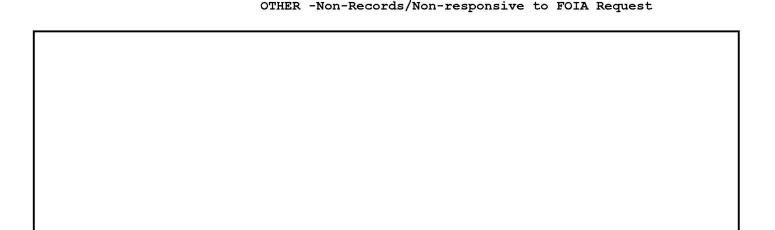
Johnson also suggested the resignation has been in the works, thanking Sandweg in the letter for "his decision to stay with the department through this transition."

As FoxNews.com reported in August, Sandweg represented accused and convicted murderers, sex offenders and pedophiles and fought for the release of violent convicted offenders. He raised campaign funds for Napolitano from 2002 to 2009.

Sandweg critics also said he played a lead role in a pattern at DHS of obstructing Freedom of Information Act requests involving spending from the 2009 stimulus plan.

According to a 2011 report prepared for Rep. Darrell Issa, R-Calif., the chairman of the House Committee on Oversight and Government Reform, <u>documents showed</u> Sandweg -- then senior adviser to Napolitano and the top political appointee in her inner circle -- was "responsible for halting releases on behalf of the [Office of the General Counsel] and the Office of the Secretary."

Sources said Sunday they hope Johnson will chose a replacement for Sandweg who has come up through the ranks of the agency with years of law-enforcement experience.



From: Jim Rybicki
To: Rybicki, James E.

Sent: Fri Feb 21 22:44:37 2014

Subject:

§3796 II-3. James Guelff and Chris McCurley Body Armor Act of 2002

b6 -1

(a) Short title

This section may be cited as the "James Guelff and Chris McCurley Body Armor Act of 2002".

(b) Findings

Congress finds that—

- (1) nationally, police officers and ordinary citizens are facing increased danger as criminals use more deadly weaponry, body armor, and other sophisticated assault gear;
- (2) crime at the local level is exacerbated by the interstate movement of body armor and other assault gear:
- (3) there is a traffic in body armor moving in or otherwise affecting interstate commerce, and existing Federal controls over such traffic do not adequately enable the States to control this traffic within their own borders through the exercise of their police power;
- (4) recent incidents, such as the murder of San Francisco Police Officer James Guelff by an assailant wearing 2 layers of body armor, a 1997 bank shoot out in north Hollywood, California, between police and 2 heavily armed suspects outfitted in body armor, and the 1997 murder of Captain Chris McCurley of the Etowah County, Alabama Drug Task Force by a drug dealer shielded by protective body armor, demonstrate the serious threat to community safety posed by criminals who wear body armor during the commission of a violent crime;
- (5) of the approximately 1,500 officers killed in the line of duty since 1980, more than 30 percent could have been saved by body armor, and the risk of dying from gunfire is 14 times higher for an officer without a bulletproof vest;
- (6) the Department of Justice has estimated that 25 percent of State and local police are not issued body armor;
- (7) the Federal Government is well-equipped to grant local police departments access to body armor that is no longer needed by Federal agencies; and
- (8) Congress has the power, under the interstate commerce clause and other provisions of the Constitution of the United States, to enact legislation to regulate interstate commerce that affects the integrity and safety of our communities.

(c) Definitions

In this section:

(1) Body armor

The term "body armor" means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

(2) Law enforcement agency

The term "law enforcement agency" means an agency of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(3) Law enforcement officer

The term "law enforcement officer" means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(d) Amendment of sentencing guidelines with respect to body armor

(1) In general

Pursuant to its authority under section 994(p) of title 28, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, as appropriate, to provide an appropriate sentencing enhancement for any crime of violence (as defined in section 16 of title 18) or drug trafficking crime (as defined in section 924(c) of title 18) (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) in which the defendant used body armor.

(2) Sense of Congress

It is the sense of Congress that any sentencing enhancement under this subsection should be at least 2 levels.

(e) Omitted

(f) Donation of Federal surplus body armor

(1) Definitions

In this subsection, the terms "Federal agency" and "surplus property" have the meanings given such terms under section 102 of title 40.

(2) Donation of body armor

Notwithstanding sections 541–555 of title 40, the head of a Federal agency may donate body armor directly to any State or local law enforcement agency, if such body armor—

- (A) is in serviceable condition;
- (B) is surplus property; and
- (C) meets or exceeds the requirements of National Institute of Justice Standard 0101.03 (as in effect on November 2, 2002).

(3) Notice to Administrator

The head of a Federal agency who donates body armor under this subsection shall submit to the Administrator of General Services a written notice identifying the amount of body armor donated and each State or local law enforcement agency that received the body armor.

(4) Donation by certain officers

(A) Department of Justice

In the administration of this subsection with respect to the Department of Justice, in addition to any other officer of the Department of Justice designated by the Attorney General, the following officers may act as the head of a Federal agency:

- (i) The Administrator of the Drug Enforcement Administration.
- (ii) The Director of the Federal Bureau of Investigation.
- (iii) The Commissioner of the Immigration and Naturalization Service.
- (iv) The Director of the United States Marshals Service.

(B) Department of the Treasury

In the administration of this subsection with respect to the Department of the Treasury, in addition to any other officer of the Department of the Treasury designated by the Secretary of the Treasury, the following officers may act as the head of a Federal agency:

- (i) The Director of the Bureau of Alcohol, Tobacco, and Firearms.
- (ii) The Commissioner of Customs.
- (iii) The Director of the United States Secret Service.

(5) No liability

Notwithstanding any other provision of law, the United States shall not be liable for any harm occurring in connection with the use or misuse of any body armor donated under this subsection.

(Pub. L. 107-273, div. C, title I, §11009, Nov. 2, 2002, 116 Stat. 1819.)

Jim Rybicki

From: Jim Rybicki

Sent: Saturday, July 05, 2014 9:11 PM

To: Rybicki, James E.

Subject: Fwd: News Alert: EXCLUSIVE: Ordinary Web users far outnumber foreign targets

in conversations intercepted by the NSA

----- Forwarded message ------

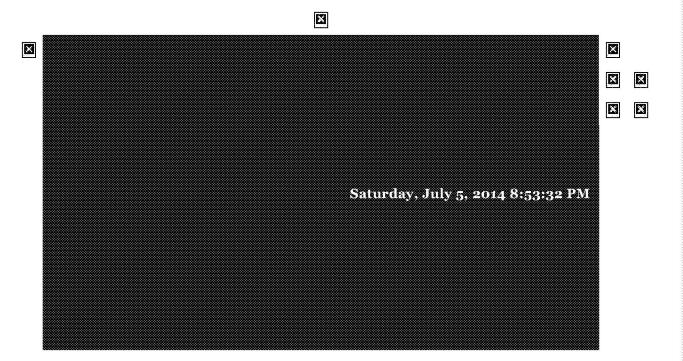
From: The Washington Post <newsletters@email.washingtonpost.com>

Date: Saturday, July 5, 2014

Subject: News Alert: EXCLUSIVE: Ordinary Web users far outnumber foreign targets in conversations

intercepted by the NSA

To: b6 -1



News Alert

EXCLUSIVE: Ordinary Web users far outnumber foreign targets in conversations intercepted by the NSA

A huge cache of agency-captured messages provided by Edward Snowden illustrates the extent that untargeted individuals get caught in the net of surveillance – and shows the former NSA contractor had access to FISA content.

X

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Read more at:

http://www.washingtonpost.com/world/national-security/in-nsaintercepted-data-those-not-targeted-far-outnumber-theforeigners-who-are/2014/07/05/8139adf8-045a-11e4-8572-4b1b969b6322_story.html X

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	OTHER	-Non-Records/Non-responsive	to FOIA Request
From: Jim Rybicki To: Rybicki, James E.		b6 -1	
Sent : Tue Jul 08 05:38:33 2014 Subject :			
Subject.			
OPINION			
Share			NEXT ARTICLE »
July 7, 2014 7:29 PM			

FBI Director James Comey, center. Photo: Associated Press

The FBI director didn't tell Congress about the missing emails.

Where's Jim Comey?

Congressional investigators keep uncovering troubling facts in the IRS political targeting scandal, which makes us wonder: Where is that independent and intrepid G-Man James Comey? The FBI director told the HouseJudiciary Committee on June 11 that his agency's IRS investigation—ordered a year ago by Attorney General Eric Holder—is still "very active" and "something I get briefed on a regular basis." We'd like to know how he defines "regular" because two days later the IRS finally disclosed that it had "lost" emails sent by former IRS tax-exempt chief Lois Lerner and six other IRS employees. Mr. Comey failed to disclose this mysterious loss of evidence in his testimony.

Some in Congress are beginning to wonder if there is any investigation at all. Ohio Rep. Jim Jordan noted in a letter to Mr. Comey last month that "one of the FBI's first actions in its criminal investigation" should be "to identify and seize all documents relating to Ms. Lerner." Had it done so, the FBI would have known a year ago that Ms. Lerner's emails had gone walkabout. We now know that the IRS told Treasury and the White House about the missing emails in April—yet the ObamaAdministration withheld that information from Congress and the public. Did the FBI know too?

IRS Commissioner John Koskinen has testified that he didn't tell the FBI about the missing emails. But if that's the case, why aren't the G-men shouting to high heaven? If the FBI discovered a private company had withheld documents in the course of a federal investigation, the handcuffs would be flashing. The FBI's gumshoes seem to be remarkably relaxed about getting IRS answers. Ditto the rest of the Justice Department. Congress learned in January that Justice assigned the IRS probe to an Obama donor, Barbara Bosserman, an attorney in the Civil Rights Division. Justice has refused to reassign the case—despite her political conflict of interest—and Ms. Bosserman has so far turned up nothing.

Then there's the House's May 7 contempt citation against Ms. Lerner. The section of the U.S. code governing contempt is clear: The House votes and then the Speaker sends the citation to the appropriate U.S. Attorney, "whose duty it shall be to bring the matter before the grand jury for its action." U.S. Attorney for the District of Columbia Ron Machen has possessed that citation for eight weeks, yet his spokesman told us in late June that the matter is "still under review." What's to review? Under the statute, Mr. Machen—an Obama appointee—has no role in analyzing the merits of the citation. His duty is to get it to a grand jury. Administrations have in the past directed U.S. Attorneys not to proceed—as the Obama White House did in a citation against Mr. Holder, and the BushAdministration did in citations againstHarriet Miers and Josh Bolten. But unless the Obama White House is now stepping up to give Ms. Lerner special immunity from prosecution—she took the Fifth rather than testify to Congress—Mr. Machen's job is clear.

Mr. Jordan is asking Mr. Comey to explain what the FBI knew and when, and that's the least he owes the taxpaying public. In his Judiciary testimony, Mr. Comey said Americans should trust his agency "because of what they know about the FBI." On the public evidence so far, Mr. Comey should worry that he is damaging his reputation—and the FBI's.

Rybicki, James E.

From: Rybicki, James E.

Sent: Wednesday, July 09, 2014 5:14 AM

To:

b6 -1

Subject: Fw: Article

---- Original Message ----- From: Baker, James A.

To: James B. Comey; Rosenberg, Chuck P.; Barnhart, Eric K.

Cc: Rybicki, James E.

Sent: Wed Jul 09 05:03:51 2014

Subject: Article

I haven't read it yet but here is the link to the Greenwald article:

https://firstlook.org/theintercept/article/2014/07/09/under-surveillance/

Rybicki, James E.

From: Rybicki, James E.

Sent: Sunday, July 27, 2014 10:38 PM

To:

Email

Subject:

Rybicki, James E. Monday, August 25, 2014 7:24 PM b6 -1	
Fw: Google Alert - Federal Bureau of Investigation	
8:01 2014	
ercept article is out. Am forwarding the google alert and link, as my comp JNET	uter toggle jus
6:30 2014 b6 -1	
	
ureau of Investigation (FBI) and the US Department of Homeland	
	Rybicki, James E. 8:01 2014 lert - Federal Bureau of Investigation ercept article is out. Am forwarding the google alert and link, as my comp UNET ooglealerts-noreply@google.com>

The Surveillance Engine: How the NSA Built its Own Secret Google
The Intercept - First Look Media
Planning documents for ICREACH, as the search engine is called, cite the Federal
Bureau of Investigation and the Drug Enforcement Administration ...

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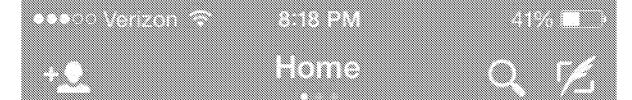
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OTHER -Non-Records/Non-responsive to FOIA Request

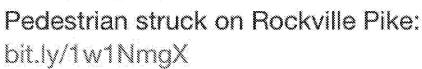
Sent from my iPhone





WTOP OWTOP

8m







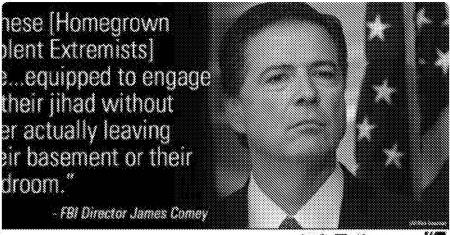




Fox News @FoxNews

8m

What is the FBI doing to protect you from ISIS? @JudgeJeanine gets answers from FBI Dir. James Comey tonight, 9p ET.



f y 🖸 /foxnews 🔄



4.34





★ The New York Times retweeted

6h

b6 -2

The 5 counties in the US that care least about college football?









OTHER -Non-Records/Non-responsive to FOIA Request
Original message
From: Jim Rybicki Date:12/05/2014 8:09 PM (GMT-05:00) To: "Rybicki, James E." <james.rybicki@ic.fbi.gov> Subject: Fwd: News Alert: Racial profiling will still be allowed at airports, along border despite new policy</james.rybicki@ic.fbi.gov>
From: The Washington Post < newsletters@email.washingtonpost.com > Date: Friday, December 5, 2014 Subject: News Alert: Racial profiling will still be allowed at airports, along border despite new policy To: 66 -1
National/global news alert • Fri., Dec. 5, 2014 8:02 pm View in your Web browser

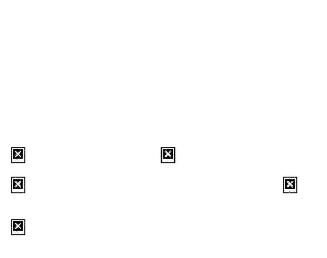
Racial profiling will still be allowed at airports, along border despite new policy

As the Obama administration prepares to announce new curbs on racial profiling by federal law enforcement, government officials said Friday that many officers and agents at the Department of Homeland Security will still be allowed to use the controversial practice, including while they screen airline passengers and guard the country's southwestern border.

Attorney General Eric. H. Holder Jr. is expected early next week to detail long-awaited revisions in the Justice Department's rules for racial profiling, banning it from national security cases for the first time. The changes will also expand the definition of profiling to prevent FBI agents from considering factors such as religion and national origin when opening cases, officials said. But after sharp disagreements among top officials, the administration will exempt a broad swath of DHS, namely the Transportation Security Administration and key parts of U.S. Customs and Border Protection, according to law enforcement officials.

Read more

×



From:	Rybicki, James E.	
Sent:	Tuesday, December 23, 2014	4 11:22 AM
To:		
		b6 -1
User	<u> </u>	
Password:		
https://www.lear	rndoj gov/plateau/user/login jsp	
James Rybicki		
James Rybicki Deputy Chief o	of Staff	

b6 -1

Rybicki, James E.

1			
		b6 -1	
Updated 2 hrs 55 i	mins ago		
BROOKLYN (WA Wenjian Liu.	ABC) Eyewitness News is learnii	ng about funeral plans for NYPD Offi	cer
ā.		ervices for Officer Liu will be held at t c. Police sources say a wake will be h	

Saturday from 1 p.m. - 9 p.m.

The funeral is scheduled for Sunday morning at 10 a.m.

Thousands attended the funeral for Liu's partner, Officer Rafael Ramos.

Liu and his partner, Rafael Ramos were shot to death as they sat in their patrol car in daylight last weekend. After the officers' deaths, the gunman, Ismaaiyl Brinsley killed himself. Map My News

Rybicki, James E.

Rybicki, James E. From:

Tuesday, December 30, 2014 10:56 PM Sent:

To:

b6 -1 Subject: Prof cert

Rybicki, James E.

Rybicki, James E. From:

Monday, January 05, 2015 3:11 PM Sent:

To: b6 -1

Subject: FW: 2014 Professionalism Certification

2014 Prof Cert.pdf **Attachments:**

From: Jim Rybicki

b6 -1 Sent: Wednesday, December 31, 2014 10:48 AM

To: Rybicki, James E.

Subject: 2014 Professionalism Certification

	•	
\$	James Rybicki	, an attorney in the
· .	Name	y an angrings in an
	of the	National Security Division
	Section Name (if applicable)	Component Name
certify that I	have satisfied the requirements of the Policy on	Professionalism Training for
Department /	tnomeys (Professionalism Policy) for calendar	year Specifically, I certify that,
on or before	December 31 of the calendar year in question, I	completed at least four hours of
Department c	of Justice professionalism training as required b	y the Professionalism Policy, which has
included at le	est (wo hours of Department professional respo	onsibility framing, one hour of government
ethics (rainin	g, and one hour of sexual harassment and non-c	liscrimination or equal employment
opportunity t	raining. I understand that only Department of I	fustice training courses satisfy the
requirements	of the Professionalism Policy.	
I flat	her understand that failure to complete the requ	sired professionalism training in a timely
manner may	result in disciplinary action against me.	
	2/2	12/31/14
	Sigetature	Date
In	mes Rybicki	

OARM Form 13 Revised September 2014 From: Jim Rybicki

Sent: Sunday, January 11, 2015 2:27 PM

To: Rybicki, James E.

White House sets delayed anti-extremism summit

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By JOSH GERSTEIN | 1/11/15 11:54 AM EST

In the wake of the terrorist attacks in Paris last week, the White House has scheduled an anti-extremism conference that was originally set for last October but was postponed without explanation.

In a statement issued as many world leaders gathered in the French capital Sunday to express solidarity with France and to vow renewed efforts to fight violent Islamic radicalism, the White House announced that its summit on the issue of homegrown terrorism will take place next month.

"On February 18, 2015, the White House will host a Summit on Countering Violent Extremism to highlight domestic and international efforts to prevent violent extremists and their supporters from radicalizing, recruiting, or inspiring individuals or groups in the United States and abroad to commit acts of violence, efforts made even more imperative in light of recent, tragic attacks in Ottawa, Sydney, and Paris," White House Press Secretary Josh Earnest said in a statement.

Secretary of Homeland Security Jeh Johnson first announced the summit in September, as concern was growing about the threat posed by the Islamic State movement and by that group's recruitment of fighters in the West. Johnson said the high-level meeting would take place the following month.

(Also on POLITICO: Holder urges more global cooperation to fight terrorism)

However, it did not. In the lead-up to the midterm elections, White House spokesmen repeatedly refused to discuss the reason for the delay or even to confirm on the record that it had been postponed.

Last week's shooting rampage at a satirical French weekly and hostage-takings at two other sites in Paris refocused attention on the danger of so-called homegrown extremists carrying out attacks far from the places in the Middle East and Africa where such violence is more common.

Earnest said Sunday that the conference would address efforts being taken in the U.S., as well as

promoting cooperation with similar work abroad.

"Countering Violent Extremism (CVE) efforts rely heavily on well-informed and resilient local communities. Boston, Los Angeles, and Minneapolis-St. Paul have taken the lead in building pilot frameworks integrating a range of social service providers, including education administrators, mental health professionals, and religious leaders, with law enforcement agencies to address violent extremism as part of the broader mandate of community safety and crime prevention," he said.

"At the same time, our partners around the world are actively implementing programs to prevent violent extremism and foreign terrorist fighter recruitment. The summit will include representatives from a number of partner nations, focusing on the themes of community engagement, religious leader engagement, and the role of the private sector and tech community," the White House spokesman added.

(Also on POLITICO: Dempsey warns ISIL has raised global terror threat)

Some active in counter-violent extremism programs have described the White House's commitment to the issue as limited and uneven—waxing and waning depending on news events. Critics also say the effort lacks coordination and is distributed across too many government agencies, none of whom are accountable for its success.

Rybicki, James E.

From: Rybicki, James E.

Sent: Friday, January 16, 2015 8:01 AM

To: b6 -1

b6 -1

Subject: FW: 2014 Professionalism Certification

Attachments: 2014 Prof Cert.pdf

From: Jim Rybicki

Sent: Wednesday, December 31, 2014 10:48 AM

To: Rybicki, James E.

Subject: 2014 Professionalism Certification

FBI 18-cv-1800-599

Original message
From: Jim Rybicki b6 -1
Date:03/31/2015 6:07 AM (GMT-05:00)
To: "Rybicki, James E. (DO) (OGA)" <james.rybicki@ic.fbi.gov> Subject: Fwd: Traffic Alert - Fairfax County</james.rybicki@ic.fbi.gov>
Subject. Two. Traine Alert - Fairfax County
Forwarded message
From: Fairfax Alerts < conf-181871581@everbridge.net >
Date: Tuesday, March 31, 2015
Subject: Traffic Alert - Fairfax County To:
10: b6 -1
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LOCATION: Fairfax Hospital - 3300 Gallows Road

INCIDENT: Armed Escape Prisoner

IMPACT: Police are responding to an armed escape prisoner at INOVA Fairfax Hospital. They hospital is on lockdown. Multiple roads around the hospital are shut down and there

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E2DOJ@cwtsatotravel.com

From:	E2DOJ@cwtsatotravel.com	
Sent:	Wednesday, April 08, 2015 10:12 AM	b6 -1
То:	Rybicki, James (NSD) (JMD) Rybicki, James E. (DO) (C)GA)
Subject:	Booking Confirmation JAMES RYBICKI Washington, Apr 10	
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invoice will be sent i	ir itinerary only. Please review for accuracy. When your reservation is ticketed, in a separate message. The invoice will show your trip details, ticket number, are prepared to present your invoice (not this itinerary copy) upon airport check-ins been issued.	nd
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Name(s) of people T Name: JAMES RYBIC		
Meal: standard		
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AIR Flight/Equip.: Jetblue	ue Airways Corp 1680 Airbus A320 Depart: Ft Lauderdale(FLL) Friday, Apr 10 20:3	30
Arrive: Washington(I	(DCA) Friday, Apr 10 22:59 Stops: non-stop; Miles: 902 Class: Coach Status:	
Confirmed Seats Rec	quested:	
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Base Airfare (per per	erson) 236.28 USD	
	Applicable fees (per person) 31.82 USD Total Flight (per person) excluding Air	

Extras 268.10 USD Flight segments must be ticketed by close of business on Friday, Apr 10, 2015

Penalty: REFUND IF CHANGE/CXL BY FLT DPT/REFUNDABLE							

AGENCY INFORMATION							
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Washington, DC, US							

DELIVERY INFORMATION							
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Deliver To: Name: JAMES RYBICKI							
Address:							
b6 -1							
Phone:							
Email: james.rybicki@ic.fbi.gov							
Shipment: Electronic Ticket							

PAYMENT INFORMATION							
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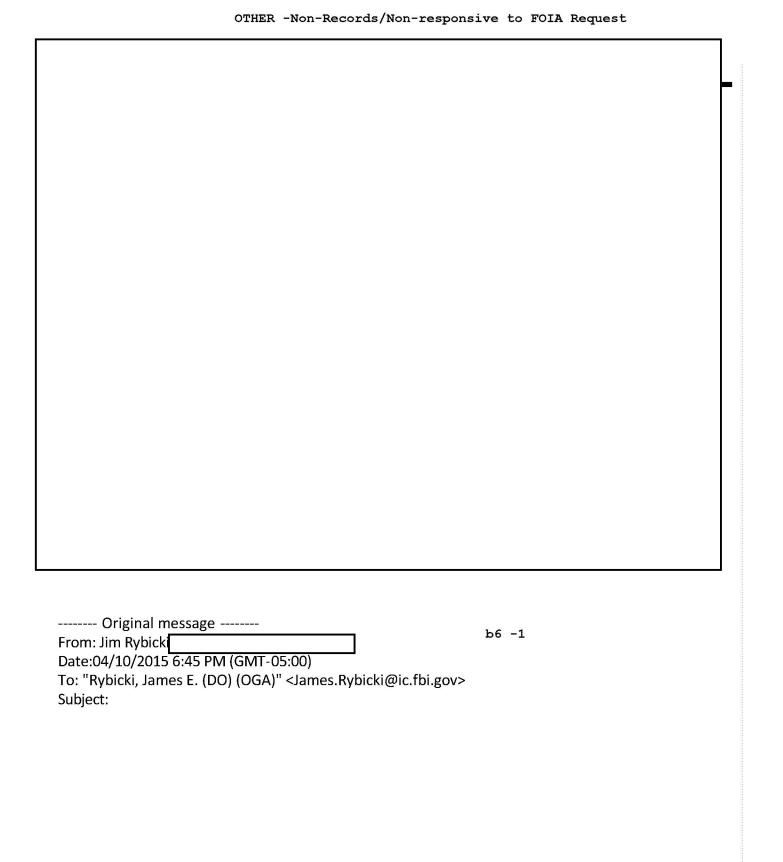
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From: Jim Rybicki

Sent: Thursday, April 23, 2015 2:19 PM

To: Rybicki, James E. (DO) (OGA)

http://www.newyorker.com/magazine/2012/05/14/when-giants-fail

From: Jim Rybicki

Sent: Monday, May 11, 2015 4:41 PM

To: Rybicki, James E. (DO) (OGA)

As Delivered Remarks of PDDNI Stephanie O'Sullivan at the 2015 IC Pride LGBTA Summit

Thursday, May 07, 2015

Intelligence Community Pride; Lesbian, Gay, Bisexual, Transgender, and Allies Summit

May 6. 2015

NRO Headquarters, Chantilly, Va

Thank you for the introduction and for welcoming me here today in place of Director Clapper. He had a personal issue that pulled him away, and there is simply no way he could be here today. I know it's the standard line to say, "I know he wishes he could be here." In this case, that's a vast understatement. He was very much looking forward to making this speech – which now, I get to make. [laughter]

He's talked a lot about how much last year's LGBTA Summit meant to him, and he asked me to relay some things. Over the past 14 months, he's spent a good bit of time ruminating on that speech, and he told me that what he said last year – he's felt that way for years, decades. But he's never before spoken out in public like that about his experiences.

He said it took him a while to process just how much the injustice he'd seen during his career bothered him, particularly his personal experience 50 years ago when he was a very young lieutenant, when he had to process the dishonorable discharges of two fine airmen who had been "outed" as homosexuals.

They were model airmen: superb Russian linguists and meticulous about their military responsibilities. And they loved serving their country. He says that five decades later, it still stings him to think of being asked to out-process them. It was a waste of superb talent, as well as a profound injustice.

Decades later, when Director Clapper was wing commander for all Air Force troops at NSA, he saw Admiral Bobby Inman take a stand and go in a different direction. The standing logic at the time was that anyone who was gay was open to blackmail and therefore should not hold a security clearance.

Of course that is and was very flawed logic. The main reason gay clearance holders were open to blackmail is because, if anyone found out their orientation, they'd lose their clearance. You'd lose your clearance, because of the threat of losing your clearance. [laughter]

It's funny, in a tragic sense, because the consequences are terrible.

So, when DNI Clapper was Colonel Clapper, Wing Commander at NSA, and a gifted crypto-mathematician there was outed and lost his clearance, NSA Director Bobby Inman restored his clearance, asking only that this officer acknowledge his sexual orientation to his coworkers, so that there was no longer any threat of blackmail.

Of course, that's a big "only." That forced the officer to follow someone else's timeline with his very personal process of coming out. But it was a courageous and at the time unprecedented decision.

A decade later, (Jim Clapper has a lot of "decades" in this business) [laughter], he was profoundly grateful for the example Inman set, because as the Chief of Air Force Intelligence, then-General Clapper was given a similar opportunity to correct an injustice, by restoring the clearance of a civilian employee who'd been outed.

He says he doesn't think that act makes up for out-processing the two airmen at the start of his career, but he says with that second chance, he had the power to do something about it. So he did. And this is a quote from Director Clapper, "Damn, it felt good." [laughter and applause]

And he says more importantly, it was the right thing to do. And it helped the Air Force retain talent they desperately needed. He says, in the weeks and months after that decision, he wore it as a badge of honor when his fellow General and Flag Officers gave him a hard time about it.

At the 2014 LGBTA Summit here, he talked with you about those experiences and a few others. He says it felt good to him to get those things off his chest and out in the open. So the first thing he asked me to pass on is his appreciation for that invitation to speak last March. I believe that speech was cathartic for him. He used the term, "cleansing."

I think he understands the influence he has as DNI, but he underestimates the impact he can have personally, because he's been a bit taken aback by how much that discussion meant to you. This February, when he was on travel in Paris, an NSA integree caught him between meetings and, with a good deal of emotion, said she'd been at the March summit, 11 months earlier. She said hearing him talk about his experiences made a huge impact on her, and the way she felt about the Intelligence Community, and her career choice to join this community.

That's fantastic, and it shows, not only what an impact he can have, but the impact you have by holding this summit, and by establishing an LGBTA community in the IC.

I want to give you the words the DNI had planned to say about that interaction in Paris and to her: "I'm amazed and humbled that I – a 74-year-old, straight, white man – can say anything that has that kind of impact on you, because I can only imagine the obstacles you've had to overcome, not for your personal gain, but so that you can serve our country. You inspire me, I believe, far more than I could inspire you." And since you all know him, you know he means that sincerely.

That passion reminds me of another senior leader I think we can find inspiration in. In the fall of 2012, OPM Director John Berry came to visit our office and spoke at an ODNI town hall. His enthusiasm for the federal workforce was evident in his remarks. When he said the government is a great place to work, he wasn't just feeding us a line.

He said he'd taken a visit to Google's campus and told an auditorium full of their employees that, for a small pay cut [laughter], and fewer stock options [laughter] they could do truly meaningful work as part of the federal workforce. As you can imagine, that's a bit of a tough sell to make on Google's home turf, but he meant it.

At our town hall, John talked about working to streamline federal hiring practices and boost hiring of veterans, about making recruitment of students and recent graduates easier and about improving the diversity of the federal workforce. What John didn't mention in his speech was his own personal story. But with our very first question, someone from my office thanked him for being "out" as the most-senior openly-gay official in the history of the federal government.

We asked John what obstacles he'd had to overcome to achieve his position. John laughed and talked about going through his very first security clearance interview, just 90 days after President Clinton signed the executive order to allow people to hold a clearance while serving openly. John said his security interviewers were more nervous than he was. [laughter] They had no idea what questions they could or couldn't ask him. [laughter] And being John, he ended up having to comfort them [laughter] and tell them it would be okay. [laughter]

We then asked John what advice he would give to gay, lesbian, bisexual, and transgender employees in the IC as they progress through their careers. He advised everyone, and this advice stands for everyone in this room, no matter what orientation, background, or experiences you've had, "Be open with who you are, because life is simply too short not to be yourself." Our auditorium erupted with applause that went on for almost a minute. I was proud of us for that.

I started my career as an engineer, contracted to work for the Office of Naval Intelligence. I worked as an ONI civilian, and then joined the CIA through the directorate of science and technology. I've got far fewer decades than DNI Clapper, [laughter], okay, two fewer, [laughter], but I've been around a while. And I've known many gay, and some bisexual, men and women; both civilians and uniformed military.

I cannot imagine the stress they were forced to endure to serve their country. It's simply incomprehensible to me, trying to keep and live with such a secret. It was wrong to have compelled people to live that way under "Don't Ask, Don't Tell" and under our regulations to hold clearances. I'm glad those things are in our past. And I'm happy that those draconian rules also no longer hang over the heads of transgender employees.

By the way, I just found out, getting ready for today – that there's a label for me. Apparently, I am "Cis-gender." [applause, extended applause]

That means my body, the gender I was assigned at birth, and my personal identity all match. It was really only a few years ago that I, and many of us, first thought about how it would feel if those didn't match.

The past couple of years have been huge for the transgender community. Case law precedents that protects transgender employees from being fired have been stacking up. And a 2012 ruling on Title 12 by the Equal Employment Opportunity Commission extends protections to transgender workers in all 50 states.

Then, in May of 2013, the diagnosis manual for psychology stopped listing being transgender as a "mental disorder." That was a big step forward, for the medical establishment to decide that, if your body and your assignment don't match your identity, there are much more constructive ways to help you than with a diagnosis of mental illness. It's good for the medical establishment to catch up to something most people have known for a long time.

Of course, that won't be the end of the struggle. We know that, because homosexuality was pulled from the list of "disorders" in 1973, and yet there are still outliers that try to "cure" homosexuality. So that, just a month ago, President Obama took a stand and called for an end to "conversion therapy." I like having a boss who publicly does things I'm proud of.

In January, for the first time ever, the President used the word "transgender" in his State of the Union speech. He was talking about how we as Americans respect human dignity, and he said, "That's why we defend free speech and advocate for political prisoners, and condemn the persecution of women or religious minorities or people who are lesbian, gay, bisexual, or transgender." The President's remarks show how, just in the past few years, we as a society have become much more attuned to how being transgender is simply a part of the human experience.

And very recently, Bruce Jenner has brought this into the public consciousness. I think we could have a reasonable debate about whether the media circus is a good thing or not, but nationally, I think we're ready for the discussion. I think the national transgender community has laid a lot of the groundwork to define terms and help us understand. And, media circus or not, personally I think airing the difficulties that transgender people experience is a good thing.

I'm happy, for instance, we can have a public discussion about "passing," specifically the idea that transgender people don't need, and shouldn't feel the need for other people to immediately identify them with the gender that they identify with. Transgender people can, in fact, dress and present according to who they are, and nothing that other people believe should drive what they do. Some people may not be ready to hear that message, but I don't consider that to be my opinion. That's just truth.

Just five or 10 years ago, it was acceptable for pop culture to use confusion over perceived sex and gender for low-brow comedy. But the transgender community has made a huge, positive impact in the past few years, and when Bruce Jenner came out with his transition, the few Paleolithic comedians who tried to make a joke of it very quickly found out how unacceptable that is today.

That's a lot of progress, very quickly made. However, just because mainstream America is learning what actions and reactions are unacceptable, that doesn't mean everyone knows how to be supportive. That's why I'm particularly proud of the work your transgender working group has done since it stood up after the first IC LGBTA Summit in 2012.

You filled a much needed gap with your publication of your, "Best Practices Guide for Transgender Employees, their Colleagues, and Managers," and I think more importantly, you've formed what I'd have to describe as a "cross-agency rapid-response team" [laughter], to help, across the community, anyone considering gender transition, and to help that person's managers and coworkers. Beyond a sense of duty, that shows a true love for our Intelligence Community and for the people who work here. So, thank you.

So I've addressed the lesbian, gay, bisexual, and transgender members of this alliance. I want to take just a couple minutes to talk to the allies, the people who put the "A" in "LGBTA." [laughter].

First, I'd like to officially add my name to your ranks. [applause] Thank you. [continued applause] That's humbling. [continued applause]

I'd like to add my name by repeating something the DNI said last year: "There's no way I can ever really know what members of the LGBT community go through and have gone through, but I can absolutely proclaim myself to be an ally." I'm proud to be one, and I'm proud of everyone else who's here today as an ally, because we, as allies, need to find a way to translate personal support into public advocacy.

The director and I both spend a lot of time talking about the "business case" for diversity in the Intelligence Community. Put simply, if we get together a bunch of people who all look and think alike to brainstorm about some problems we have, we'll all come up with similar ideas about what to do. If you look back at prominent intelligence failures, particularly as laid out by the Iraq WMD Commission, you'll see that each time, diverse thinking by people with diverse life experiences might have prevented the mistakes we made.

But here's an important distinction: hiring a diverse workforce is not enough. We won't reap the benefits of that diversity unless we also foster a culture of inclusion. People who belong to a minority group in our IC, whether that's because of their national origin, native language, race, color, disability, ethnicity, gender, age, religion, sexual orientation, or gender identity, need to feel welcome in our community, and they need to know they don't need to hide what makes them unique. It's from our differences that we draw our strengths. That's the "business and mission case" for diversity.

To me, there's an equally important reason to convert personal support into public advocacy. It's the right thing to do, to treat everyone, especially IC professionals, with dignity and respect. That may mean, if you pass someone cracking an inappropriate joke in the hallway, you stop and say, "That's not how we act here." Or that may mean actually speaking out in public.

As a rule, the director and I try not to take ourselves or the positions we occupy too seriously, but we realize that we can and should use our positions as, (and this is how Director Clapper puts it), a "bully pulpit" when the occasion calls for it.

I do have to remind him he's not actually old enough to have been Teddy Roosevelt's principal intelligence advisor. [laughter]

This occasion calls for using that bully pulpit. After the 2014 LGBTA Summit, we published his remarks on ODNI's public website, and we got outside publications to print them as well. I intend to continue talking about IC pride after today's summit, and Director Clapper has assured me that he'll be doing the same for the 87 weeks he has left to serve this community; not that he's counting. [laughter]

By the way, I love the name of this group: IC Pride. I checked online for a definition of gay pride or LGBT pride, and I found this: "It's is the positive stance against discrimination and violence toward lesbian, gay, bisexual, and transgender (LGBT) people, to promote their self-affirmation, dignity, equality rights, increase their visibility as a social group, build community, and celebrate sexual diversity and gender variance."

The phrase in there that jumped out at me was, "build community." That's been our goal at ODNI, building a community of diverse intelligence agencies. Each Intelligence Community agency and element has its own unique intelligence tradecraft that it brings to the table. And we work best, as a community, when we celebrate how each agency is different, and we take advantage of the strengths inherent in their different cultures and ways of doing business. That's true at a macro level with agencies and at a micro level with individual intelligence officers.

So, going forward, I plan to be even more public with my support, because it's good for our community to be inclusive, and because it's right for our IC to welcome everyone who's a member. We should all take pride in doing so.

The work you do here, work that cuts across agency lines and brings people together as a community, is an important part of intelligence integration. That goes for the transgender working group, the ally engagement group, the recruitment and retention group, the communications and technology group, and the group that put this summit together. Thank you all for the work you do every day, and particularly for the work you're doing with IC Pride and at today's summit.

I want to leave you with a few words from the President. Two weeks ago, my office celebrated our tenth anniversary, and our celebration was capped off by a visit from President Obama. He spoke to our workforce and asked us to go out to all the agencies and pass along his message.

He said first to tell you - simply - "You can take great pride in your service."

He talked about integrity. He said, "The work you provide is vital for me being able to make good decisions. And the fact that the work you prepare is giving it to me straight, that it doesn't look at the world through rose-colored glasses, that it doesn't exaggerate threats, but doesn't underplay the significant challenges that we face around the world – that's vitally important to me."

Then he talked about the great successes we've had over the past few years ... and the great challenges, and he wrapped up with this message. He said, "I know what you do. We're more secure because of your service. We're more secure because of your patriotism and your professionalism. And I'm grateful for that."

So that's the President's message he wanted me to pass along, and because of the challenges we've faced over the past few years, that message comes from a President who has a better understanding of how the intelligence enterprise works than any of his predecessors.

I know he'd agree with me, that in our 21st Century world, your work here with IC Pride is critical to our Intelligence Community and to the defense of our nation. So I want to leave you with the President's words: "You can all take great pride in your service." Thank you.

[applause, then standing ovation]

From: Jim Rybicki

Sent: Wednesday, May 27, 2015 10:02 PM

To: Rybicki, James E. (DO) (FBI)

Subject: Wendy Sherman leaving state department - CNNPolitics.com

Wendy Sherman leaving state department - CNNPolitics.com

Download the Twitter app

Sent from my iPhone

From: Jim Rybicki

Sent: Saturday, May 30, 2015 2:28 PM

To: Rybicki, James E. (DO) (FBI)

 $\underline{https://m.whitehouse.gov/photos-and-video/video/2015/05/30/weekly-address-pass-usa-freedom-act}$

Rybicki, James E. (DO) (FBI)

From: Rybicki, James E. (DO) (FBI)

Sent: Wednesday, June 10, 2015 3:21 PM

To: b6 -1

Subject: FW: Executive Bio

Attachments: RybickiJames Bio.docx



Jim Rybicki Chief of Staff/Senior Counselor Director's Office Federal Bureau of Investigation

Jim Rybicki serves as the chief of staff and senior counselor to the Director. Jim began his career with the Department of Justice in 2001 and has served in various offices and capacities, including the Office of Legislative Affairs, the Office of Intelligence Policy and Review, the Office of the Deputy Attorney General, the United States Attorney's Office for the Eastern District of Virginia, and the National Security Division. His last assignment before joining the FBI was as acting deputy chief of staff and counsel to the acting assistant attorney general for national security. Jim has handled a wide range of subject matters during his service ranging from counterterrorism and counterintelligence to public affairs and law enforcement



coordination. Prior to joining the Department of Justice, Jim served as a federal police officer with the United States Capitol Police.

Jim is a graduate of the George Washington University, where he received his bachelor's degree; the Federal Law Enforcement Training Center; and the Catholic University, Columbus School of Law, where he received his juris doctor degree.Mr. Campbell earned a Juris Doctorate from Washburn University and a Bachelor of Arts in political science from the University of Kansas.

Rybicki, James E. (DO) (FBI)

From: Rybicki, James E. (DO) (FBI)

Sent: Wednesday, June 24, 2015 10:42 AM

To: b6 -1

Subject: Bar certs

From: Jim Rybicki

Sent: Sunday, July 26, 2015 3:59 PM
To: Rybicki, James E. (DO) (FBI)

I think that it's a mistake to require companies that are making hardware and software to build a duplicate key or a back door even if you hedge it with the notion that there's going to be a court order. And I say that for a number of reasons and I've given it quite a bit of thought and I'm working with some companies in this area too.

First of all, there is, when you do require a duplicate key or some other form of back door, there is an increased risk and increased vulnerability. You can manage that to some extent. But it does prevent you from certain kinds of encryption. So you're basically making things less secure for ordinary people.

The second thing is that the really bad people are going to find apps and tools that are going to allow them to encrypt everything without a back door. These apps are multiplying all the time. The idea that you're going to be able to stop this, particularly given the global environment, I think is a pipe dream. So what would wind up happening is people who are legitimate actors will be taking somewhat less secure communications and the bad guys will still not be able to be decrypted.

The third thing is that what are we going to tell other countries? When other countries say great, we want to have a duplicate key too, with Beijing or in Moscow or someplace else? The companies are not going to have a principled basis to refuse to do that. So that's going to be a strategic problem for us.

Finally, I guess I have a couple of overarching comments. One is we do not historically organize our society to make it maximally easy for law enforcement, even with court orders, to get information. We often make trade-offs and we make it more difficult. If that were not the case then why wouldn't the government simply say all of these [takes out phone] have to be configured so they're constantly recording everything that we say and do and then when you get a court order it gets turned over and we wind up convicting ourselves. So I don't think socially we do that.

And I also think that experience shows we're not quite as dark, sometimes, as we fear we are. In the 90s there was a deb — when encryption first became a big deal — debate about a Clipper Chip that would be embedded in devices or whatever your communications equipment was to allow court ordered interception. Congress ultimately and the President did not agree to that. And, from talking to people in the community afterwards, you know what? We collected more than ever. We found ways to deal with that issue.

So it's a little bit of a long-winded answer. But I think on this one, strategically, we, requiring people to build a vulnerability may be a strategic mistake.

Rybicki, James E. (DO) (FBI)	
From: Rybicki, James E. (DO) (FBI) Sent: Sunday, August 02, 2015 8:42 PM To: b6 -1 Subject: Fwd:	
To: "Rybicki, James E. (DO) (FBI)" <james.rybicki@ic.fbi.gov>, DO) (FBI)" (ITID) (FBI)" (FD) (FBI)"</james.rybicki@ic.fbi.gov>	6 -1
is in the system and should have FBINet and Unclass access. I submitted "critical" requests to have her receive DO shared drive and SCION access. There is a God!!! b I placed you as supervisor in the system for this process so you can go into EPAS in the morning and simply hit "submit" to move the request forward. I'll then contact the folks that can process the request and coordinate the rest with	6 -1
Have a great rest of the weekend everyone Federal Bureau of Investigation, Executive Coordination Manager Office Cell Fax	

Cc: "James B. Comey" <jcb.dir@ic.fbi.gov> Subject: Speech version 2 is attached

James B. Comey

From:	James B. Comey
Sent:	Monday, August 31, 2015 2:34 PM
To:	b6 -1
Subject:	Fwd:
Attachments:	IACP speech draft v 2.docx; ATT00001.htm
Pagin forwards	d macraga.
Begin forwarde	u message:
Date: Aug To: "Jame Subject: Here is m delivery v	ybicki, James E. (DO) (FBI)" < James.Rybicki@ic.fbi.gov gust 31, 2015 at 12:38:33 PM EDT es B. Comey" < jcb.dir@ic.fbi.gov Fwd: y best effort from the road. The speech is looking very good. This is one where will be almost as important as the words so I do worry a little about how people it when it is distributed. I will do a deeper dive on v3.
For delive thought.	ery, I agree that it does seem a little more urgent but let me give it some more
From: Jim Date: 08/	iginal message Rybicki 31/2015 10:31 AM (GMT-07:00) cki, James E. (DO) (FBI)" < <u>James.Rybicki@ic.fbi.gov</u> >

From:	Rybicki, James E. (DO) (FBI)	
on to one a 10	Tuesday, September 01, 2015 11:24 AM	
Sent:	ruesday, september 01, 2013 11:24 AW	
To:		b6 -1
Subject:	Fwd: The Ghost of	
Para.		
Original	message	
From: "Barnhart	;, Eric K. (SU) (FBI)"	
Date: 09/01/20	15 5:30 AM (GMT-07:00)	
To: "Rybicki, Jar	nes E. (DO) (FBI)" <james.rybicki@ic.fbi.gov></james.rybicki@ic.fbi.gov>	b6 -1
Subject: The Gh	ost of	
it's good to hea	r the ghost oflives on in the current DCOS	Sere.

Rybicki, James E. (DO) (FBI)

From: Jim Rybicki

Sent: Sunday, September 06, 2015 3:52 PM

To: Rybicki, James E. (DO) (FBI)

 $\frac{\text{http://www.washingtonpost.com/news/wonkblog/wp/2015/09/04/the-crime-wave-in-u-s-cities-doesnt-show-up-in-the-data/?tid=sm_tw}{\text{two-line-wave-in-u-s-cities-doesnt-show-up-in-the-data/?tid=sm_tw}}$

	OTHER -Non-Records/Non-responsive to FOIA Request
Original message From: Jim Rybicki Date: 09/06/2015 3:51 PM (GMT-05: To: "Rybicki, James E. (DO) (FBI)" <ja Subject:</ja 	·
http://www.washingtonpost.com/neshow-up-in-the-data/?tid=sm_tw	ws/wonkblog/wp/2015/09/04/the-crime-wave-in-u-s-cities-doesnt-

Rybicki, James E.	(DO)	(FBI)
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From:	Rybicki, James E. (DO) (FBI)		
Sent:	Saturday, September 12, 2015 7:21 PM	1	
То:		b6 -1	
Subject:	Fwd: NICS Review		
Attachments:	NICS white paper.doc		
Original mass	2270		
Original mess From: "Hess, Amy S.		٦	
Date: 09/12/2015 5:		_	b6 -1
	E. (DO) (F <mark>BI)" <james.rybicki@ic.fbi.go< mark="">v</james.rybicki@ic.fbi.go<></mark>		
Cc: (D	OO) (FBI)"	DO) (FBI)"	
Subject: RE: NICS Rev	view		
Jim Please see attache	d. Let me know if you need more info. Also, do	you know the status of th	e press statement?
From: Rybicki, James E. (
Sent: Friday, September To: Hess, Amy S. (DO) (FB			
Cc (DO) (FI	BI); DO) (FBI)		
Subject: RE: NICS Review	b6	-1	
Hi Amy-			
Just checking in on the si to discuss at the meeting	ummary of actions item. The D is meeting with	the DAG on Monday and	her staff said she wanted
Thanks!			
From: Hess, Amy S. (DO)	(FBI)		
Sent: Thursday, Septemb			
To: Rybicki, James E. (DO Cc: Giuliano, Mark F. (DC		(DO) (FBI)	h.C. 1
Subject: RE: NICS Review		•	b6 -1
	this a.m. to finalize the language of the press st		
	but am not sure) the DD signed off on the INSD odo so. As for the actions we're taking, we'll wr		
~		ree and up in a separate a	osament for you at the DD.
From: Rybicki, James E. (Sent: Thursday, Septemb			
To: Hess, Amy S. (DO) (FB	BI)	k= a, /==,	
Cc: Giuliano, Mark F. (DC Subject: NICS Review	O) (FBI); (DO) (FBI);	(DO) (FBI) b	6 -1

Amy: At SIOC yesterday, the DAG requested:

- 1. The INSD NICS review report; and
- 2. A summary of actions taken in response to the review.

I know you have been working on a written statement for possible release. Can you please send when you have a draft so we can evaluate using that to send over to DOJ?	0
Thanks,	b5 -1
Jim	

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NICS RESPONSE TO THE FBI INSPECTION DIVISION REPORT

The CJIS Division/NICS response to the FBI Inspection Division's report covers five major areas.

The timely reporting of full and accurate criminal history records: The FBI Director has made the missing disposition issue one of his top priorities. Providing information to the FBI, particularly the databases searched by the NICS, is completely voluntary. The CJIS Division has an outstanding collaborative relationship with local, state and federal agencies that participate in making information available at the national level. The FBI is methodically reaching out to targeted agencies through outreach, training, conferences, and active participation in various state or judicial venues to obtain more complete records. The CJIS Division is already starting to receive disposition data from agencies with the highest missing information. The CJIS Division has made numerous tools available to agencies to support the timely, electronic sharing of criminal history information. The DOJ will strive to reinforce the modernization of state records management systems so final dispositions can be received electronically.

In addition to these broader efforts, the NICS Section has initiated a 30-day pilot to evaluate indepth, alternative processing for checks where record/disposition information is missing. This pilot will attempt to make multiple contacts to obtain necessary information to finalize additional transactions. The details surrounding each transaction will be documented. By doing so, problematic areas will be brought to the forefront, allowing for swift identification and resolution.

Communication and information sharing among agencies: The CJIS Division, and in particular the NICS Section, takes every opportunity to meet and speak before applicable audiences regarding the NICS mission, the time sensitive nature of responses to the firearm dealer, and the record information needed by NICS. As a result, the NICS Section has spoken at hundreds of conferences and meetings nationwide before audiences that vary widely, but often include law enforcement, judges, and prosecutors. In addition to this ongoing effort, the NICS Section makes resource materials available via internet sites, training vehicles, and in-person exchanges. The CJIS Division sponsors annual conferences and meetings on a regular basis, as well. The CJIS Division applies several methods to ensure its collaborative relationship with local, state, and federal agencies is at the forefront of all of its efforts. The NICS Section plans to

If so, the NICS Section will strive to close any gaps identified.

Prioritization protocols to resolve inquiries: As mentioned previously, the pilot requires the detailed collection of data and circumstances tied to each transaction and will allow for the examination of alternatives to reduce the number of transactions in delayed status and/or how to more efficiently close them with a final determination.

Last Updated: 09/11/2015

Drafted by NICS Section

Approved by: Kimberly Del Greco, Section Chief, NICS

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b6 -1

b5 -1

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The NICS Section plans to	N° ::
	The NICS Section has
found that staff can often work 1-2 additional transactions for every trans	saction initiated via the
E-Check.	

Resource alignment and training to improve efficiency: Over the last 10 years, the number of background checks has doubled. The FBI is surging resources to the NICS process to target the transactions in "delayed" status and to collect data that will allow executive management to better assess resource allocation. With the deployment of a new NICS system in early 2016, the FBI is working on training tools to allow the FBI's staff to optimize the operational efficiencies the new system will provide. The majority of NICS transactions are resolved within minutes (91%). Therefore, the focal area for the FBI moving forward will be to identify solutions to help resolve the lingering 9% of transactions delayed. It is optimal for the FBI to be able to provide a definitive response to every transaction before the expiration of the third business day (at which time the firearm dealer can electively transfer the firearm). The NICS Section also has other measures in place to support resource management and training efforts. The NICS Section has revised its plan that triggers non-operational support staff to help work incoming transactions. In addition to a strong mentoring program, the CJIS Division also has a dedicated training staff who have standardized training to address the needs of NICS and who continually adapt and respond to training initiatives.

Automated search capabilities: The FBI will be deploying the New NICS in January 2016. The New NICS will provide the FBI with processing efficiencies, timely system updates, and improved data sharing. In addition, the NICS Section is evaluating options to search available FBI databases that may prove beneficial in resolving delayed transactions.

Last Updated: 09/11/2015 b6 -1

Drafted by: NICS Section

Approved by: Kimberly Del Greco, Section Chief, NICS

UNCLASSIFIED

From: Jim Rybicki

Sent: Monday, September 21, 2015 9:07 PM

To: Rybicki, James E. (DO) (FBI)

 $\frac{d\plain\f0http://www.politico.com/story/2015/09/fbi-rejects-judges-request-for-clinton-email-info-213889$

From: Jim Rybicki

Sent: Saturday, September 26, 2015 8:52 PM

To: Rybicki, James E. (DO) (FBI)

The White House invited marquee names from Silicon Valley, including Apple CEO Tim Cook and Facebook founder Mark Zuckerberg, to sit at the dinner's head table alongside President Barack Obama and President Xi.

Disney CEO Bob Iger and DreamWorks chief Jeffrey Katzenberg were also seated at the President's side.

From: Jim Rybicki

Sent: Friday, October 09, 2015 12:53 PM

To: Rybicki, James E. (DO) (FBI)

Subject: Shared from Twitter: Inside an FBI Hostage Crisis - WSJ.com

Inside an FBI Hostage Crisis - WSJ.com

Download the Twitter app

Sent from my iPhone

From: Jim Rybicki

Sent: Monday, October 12, 2015 6:36 PM

To: Rybicki, James E. (DO) (FBI)

Attachments: October 2015.docx

Balance of October 2015 Major Engagements

Wednesday, October 14

- Cincinnati FO Visit
- Cyber Symposium (Evening)

Thursday, October 15

- Cleveland Community Engagement Event (Morning)
- Cleveland FO Visit (Afternoon)

Friday, October 16

- NAC Graduation

Tuesday, October 20

- SSCI Closed Roundtable

Wednesday, October 21

- National Academy of Science Discussion (Morning)
- HPSCI Worldwide Threats Hearing (Morning)

Thursday, October 22

- Leadership Development Program Welcome (Morning)
- House Judiciary Committee Open Hearing (Morning)

Friday, October 23

- WH Fellows Talk (Morning)
- HIG Symposium (Morning)
- University of Chicago Discussion (Afternoon)

Monday, October 26

- IACP Plenary Session Speech (Morning)
- IACP International Panel Speech (Early Afternoon)

^{*}Venues for violent crime/LE discussions.

From: Jim Rybicki

Sent: Saturday, October 17, 2015 8:43 PM

To: Rybicki, James E. (DO) (FBI)

Subject: Shared from Twitter: FBI — Director Urges Closer Ties Between Police,

Communities

FBI — Director Urges Closer Ties Between Police, Communities

<u>Download</u> the Twitter app

Sent from my iPhone

Rybicki, James E. (DO) (FBI)

From:	Rybicki, James E. (DO) (FBI)		
Sent:	Sunday, October 18, 2015 6:27 PM		
To:	b6 -1		
Subject:	Fwd: U Chicago speech draft		
Attachments:	10.23.15 Director's Talking Points for University of Chicago Law School.docx; ATT00001.htm		
받			
Original me	.ssage		
- 100 " " " " " "	omey" <jcb.dir@ic.fbi.gov></jcb.dir@ic.fbi.gov>		
Date: 10/18/2015	6:08 PM (GMT-05:00)		
To: "Rybicki, Jame	s E. (DO) (FBI)" <james.rybicki@ic.fbi.gov>, (DO) (FBI)"</james.rybicki@ic.fbi.gov>		

Here is the version I shaped this weekend. I kept the data part but shortened it and made a variety of other stylistic changes.

b6 -1

Rybicki, James E.	(DO) (FBI)	
From: Sent: To: Subject: Attachments:	Rybicki, James E. (DO) (FBI) Monday, October 19, 2015 8:09 PM Fwd: FBINET to UNET Uploaded Files 10.23.15_WHF_HIG_Timeline.v5.doc	b6 -1
ال س و		
To:	essage	b6 -1 b7E -3
Timeline for Fri att	tached.	
SSA Federal Bureau of invi Director's Office Coordination and Ope Office: Mobile		
Original me From: Date: 10/19/2015 To:	255age DO) (FBI) 15:52 (GMT-05:00) (DO) (FBI)"	(DO) (FBI)"
	ET to UNET Uploaded Files	b6 -1
Here ya go		
		
Original me	essage Clarico	

b7E -3

Date: 10/19/2015 3:19 PM (GMT-05:00) b6 -1
To: (DO) (FBI)" b7E -3
Subject: FBINET to UNET Uploaded Files



ADVANCE INFORMATION Director James B. Comey

White House Fellows Meeting and High Value Detainee Interrogation Group Symposium

October 23, 2015

PURPOSE:	To provide remarks to the White House Fellows Meeting and the High Value Detainee Interrogation Group Symposium.
7:35 a.m.	Depart residence en route to Chamber of Commerce Building. Note:
	Arrive at the Chamber of Commerce Building; proceed to the Hall of Flags, 1 st Floor.
	Note: You will be met and escorted by White House Fellows Executive Director David Moore.
8:15 a.m.	Deliver your remarks followed by Q&A.
	Note: You will be introduced by
8:45 a.m.	Q&A concludes; depart en route to the National Academy of Sciences. Note: Drive time is 15 minutes.
9:00 a.m.	Arrive at the National Academy of Sciences.
	Note: You will be met and escorted by Frazier R. Thompson, IV, High Value Detainee Interrogation Group (HIG) Director.
9:15 a.m.	Deliver opening remarks to the HIG Symposium.
9:45 a.m.	Remarks conclude; depart en route to Washington Reagan National Airport (DCA).
	Note: Drive time is 15 minutes.
10:00 a.m.	Arrive at DCA

b6 -1

b6 -3

10:20 a.m. Depart DCA en route to Chicago Midway Airport (MDW).

Note: Flight time is one hour 25 minutes. There is a -1 hour time change.

10:45 a.m. Arrive at MDW.

From: Jim Rybicki

Sent: Saturday, October 24, 2015 9:35 AM

To: Rybicki, James E. (DO) (FBI)

Subject: F.B.I. Chief Links Scrutiny of Police With Rise in Violent Crime - NYTimes.com

 $http://mobile.nytimes.com/2015/10/24/us/politics/fbi-chief-links-scrutiny-of-police-with-rise-in-violent-crime.html?_r=0\&referer=https://www.google.com/$

Sent from my iPhone

From: Jim Rybicki

Sent: Monday, October 26, 2015 7:44 AM

To: Rybicki, James E. (DO) (FBI)

Subject: Shared from Twitter: FBI chief tries to deal with the 'Ferguson effect' -

CNNPolitics.com

FBI chief tries to deal with the 'Ferguson effect' - CNNPolitics.com

Download the Twitter app

Sent from my iPhone

From: Jim Rybicki

Sent: Monday, October 26, 2015 9:13 PM

To: Rybicki, James E. (DO) (FBI)

Subject: Shared from Twitter: White House Disagrees With F.B.I. Chief on Scrutiny as a

Cause of Crime - NYTimes.com

White House Disagrees With F.B.I. Chief on Scrutiny as a Cause of Crime - NYTimes.com

Download the Twitter app

Sent from my iPhone

	JN) (FBI)
From: Sent: To: Subject:	(JN) (FBI) Monday, October 26, 2015 11:37 PM DO) (FBI); Rybicki, James E. (DO) (FBI); Kortan, Michael P. (DO) (FBI) Fwd: ent you "71B3FDB9-154B-4BB2-8AC0-47EA5D747DD3:New Recording.m4a"
	• •
From via Dr	ropbox <no-reply@dropbox.com> 2015 22:35 (GMT-06:00) N) (FBI)" sent you "71B3FDB9-154B-4BB2-8AC0-47EA5D747DD3:New Recording.m4a"</no-reply@dropbox.com>
	b6 -1 shared a file with you on Dropbox
	71B3FDB9-154B-4BB2-8AC0- 47EA5D747DD3:New Recording.m4a

Jim Rybicki		*********
From:	Jim Rybicki	
Sent:	Saturday, October 31, 2015 8:40 AM	
To:	Rybicki, James E. (DO) (FBI)	
Subject:	Fwd:	
Forwar	ed message	
From: Jim Rybio		
	October 31, 2015 b6 -1	
Subject:		
To: Jim Rybicki		

http://www.newsday.com/news/new-york/william-bratton-says-nypd-cops-impacted-by-ferguson-effect-1.11034678

From: Jim Rybicki

Sent: Tuesday, November 03, 2015 4:15 PM

To: Rybicki, James E. (DO) (FBI)

Catherine Chen

Dana Boente

b6 -1

Original message	
From: Jim Rybicki	1.0
Date: 11/09/2015 10:00 PM (GMT-05:00)	b6 -1
To: "Rybicki, James E. (DO) (FBI)" <james.rybicki@ic.fbi.gov></james.rybicki@ic.fbi.gov>	
Subject:	



	OTHER	-Non-Records/Non-responsive	to FOIA	Request
Original message		b6 -1		
From: Jim Rybicki Date: 11/17/2015 8:03 PM (GMT-05:00)				
To: "Rybicki, James E. (DO) (FBI)" <james.rybicki@ic.fbi.gov></james.rybicki@ic.fbi.gov>				
Subject:				
https://www.washingtonpost.com/world/na	ational-:	security/loretta-lynch-there-is-no-	data-backi	ing-the-
existence-of-a-ferguson-effect/2015/11/17	/ebac5f	1a-8d56-11e5-acff-673ae92ddd2b	story.htr	ml

Jim Rybicki	
From: Sent:	Jim Rybicki Thursday, December 17, 2015 7:46 PM
То:	Rybicki, James E. (DO) (FBI)
d\plain\f0Tea	m-
d\plain\f0	
me say many i liked to have l for all of your President talk I hope to see i	times, my wife often reminds me that but I sure would have been there with you today to enjoy good friends, food, and a chance to thank you again work. The only thing that provides me some solace is the fact that was with the ing about the extraordinary work you and your folks do on behalf of the American people. many of you before Christmas, but if not, please enjoy this joyous season with family and a you as well to all who helped to organize today's festivities. Our luncheon is truly the each year.
d\plain\f0	

d\plain\f0Merry Christmas.

d\plain\f0Jim Comey

d\plain\f0

b6 -2

From: Jim Rybicki

Sent: Saturday, December 19, 2015 12:07 PM

To: Rybicki, James E. (DO) (FBI)

 $\underline{\text{d}plain} \\ \underline{\text{fonter-botched-raid-destroyed-familys-christmas-tree.html}}$

From:

Jim Rybicki

Sent:

Saturday, January 09, 2016 2:16 PM

To:

Rybicki, James E. (DO) (FBI)

Statement By Secretary Jeh C. Johnson On National Law Enforcement Appreciation Day

Release Date: January 9, 2016 For Immediate Release

DHS Press Office Contact: 202-282-8010

Today, on National Law Enforcement Appreciation Day, I would like to thank all law enforcement officers serving our communities. From the frontline officers across the Department of Homeland Security, to the federal, state and local officers we work with every day, your important efforts go unnoticed far too offen.

Just last month I had the privilege of delivering remarks at the New York Police Department Academy graduation ceremony. As I noted then, the terrorist threat today is very different than it was on 9/11. Given the events of recent months, local law enforcement is at a heightened state of awareness. Homeland security has become a matter of hometown security, and the local officer on the beat may be the first to detect a terrorist attack on the United States. I am confident that the men and women serving in law enforcement will continue to rise to the challenge posed by the evolving terrorist threat.

To law enforcement personnel, both within DHS and across the country, thank you for your continued service to protect the public and preserve the peace, and for putting your life on the line every day.

###

From: Jim Rybicki

Sent: Tuesday, January 12, 2016 9:07 PM

To: Rybicki, James E. (DO) (FBI)

Attachments: IMG_3488.jpg







FBI Washington Field @FBIWFO 3m. @FBI Director Comey is briefed on preparations for #SOTU in @FBIWFO command post.







From: Jim Rybicki

Sent: Wednesday, January 13, 2016 8:04 AM

To: Rybicki, James E. (DO) (FBI)

J Rybicki

From: J Rybicki

Sent: Wednesday, January 27, 2016 8:57 PM

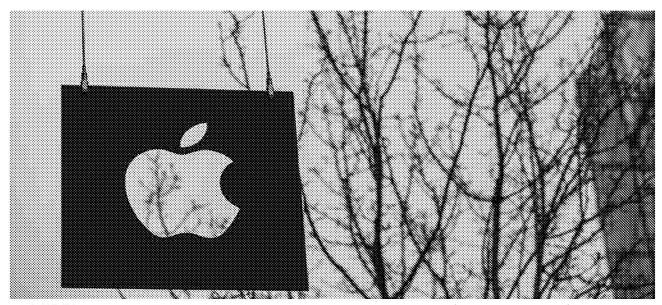
To: Rybicki, James E. (DO) (FBI)

https://www.washingtonpost.com/graphics/national/2015-homicides/?tid=sm_tw

From:	Rybicki, James E. (DO) (FBI)
Sent:	Saturday, February 20, 2016 11:47 AM
To:	b6 −1
Subject:	Fwd: Draft TPs - GD Apple Litigation
Attachments:	Going Dark - Apple Litigation TPs 2-19-16 + Jim B comments.docx
Mitacoments:	Going Dark - Apple Enigation 175 2-15-16 + 3m1 5 comments.dock
an s	
Original me From: Date: 02/20/2016	2ssage DO) (FBI)"
10.57	s E. (DO) (FBI)" <james.rybicki@ic.fbi.gov> t TPs - GD Apple Litigation</james.rybicki@ic.fbi.gov>
you saw what the response to a que	yesterday regarding what the boss should say on litigation, I thought it might help if group was recommending for discussion on Monday. These would be only for stion at the hearing, or from press if that arose next week. OGC and Sasha edited by will send you both red lines. This is Baker's version.
u	
Original me	issage
	es A. (OGC) (FBI)" <james.baker@ic.fbi.gov></james.baker@ic.fbi.gov>
the following the first office of population property to	3:24 PM (GMT-05:00)
To: "Kelly, Stephe	D. (DO) (FBI)" (FD) (FD) (FBI)" (FD) (FD) (FD) (FBI)" (FD) (FD) (FD) (FD) (FD) (FD) (FD) (FD)
Amy S. (DO) (FBI)	
	h@ic.fbi.gov>, "Kortan, Michael P. (DO) (FBI)" <michael.kortan@ic.fbi.gov>,</michael.kortan@ic.fbi.gov>
(DO) (FBI)"	, "Oconnell, Sasha C. (DO) (FBI)"
	Dic.fbi.gov>, "Sleeper, Kerry L. (DO) (FBI)" "Anderson,
Trisha B.(OGC) (F	
Cc: "Haley, Richar	2 20 20 30 5 3 20 20 3 20 3 20 3 20 3 20
<elizabeth.beers@ Suhiect: RF: Oraft</elizabeth.beers@ 	∂ic.fbi.gov>,(DO) (FBI)' TPs - GD Apple Litigation
ourgeet, me. Oran	na sample megania
Attached are some	comments on the talkers. Thanks.

ASSES ASSES	
From: Kelly, Stephen D. (DO) (FBI) Sent: Friday, February 19, 2016 3:20 FM To: Baker, James A. (OGC) (FBI); (FD) (FBI); Mccabe, Andrew G. (DO) (FBI); Hess, Arry S. (DO) (FBI); Steinbach, Michael B. (CTD) (FBI); Kortan, Michael P. (DO) (FBI); (DO) (FBI); Oconnell, Sasha C. (DO) (FBI); Sleeper, Kerry L. (DO) (FBI) Cc: Haley, Richard L. (FD) (FBI); Beers, Elizabeth R. (DO) (FBI); (DO) (FBI) business: RE: Draft TPs - GD Apple Litigation	5 -1
Sen Feinstein has already spoken publicly supporting us, on CNN among other places; not sure where Sen Boxer is: Just to clarify, Cong. Honda represents Santa Clara (ie. Silicon Valley) so it is no surprise that he takes this position. I'll check to see what if anything Cong. Aguilar, who represents San Bernadino, has said.	
Stephen D. Kelly Assistant Director Office of Congressional Affairs Federal Sureau of Investigation b6 -1	
From: Baker, James A. (OGC) (FBI) Sent: Friday, February 19, 2016 1:46 PM To:	
From: FD) (FBI) Sent: Friday, February 19, 2016 1:26 FM To: Kelly, Stephen D. (DO) (FBI); Mccabe, Andrew G. (DO) (FBI); Hess, Amy S. (DO) (FBI); Baker, James A. (OGC) (FBI); Steinbach, Michael B. (CTD) (FBI); Kortan, Michael P. (DO) (FBI); (DO) (FBI); Oconnell, Sasha C. (DO) (FBI); Sleeper, Kerry L. (DO) (FBI) Cc: Haley, Richard L. (FD) (FBI); Beers, Elizabeth R. (DO) (FBI); (DO) (FBI) Subject: RE: Draft TPs - GD Apple Litigation Thanks Stephen. Also, not sure if everyone has seen this, but the Hill posted this article. Congressman	ъ6
Honda is the ranking member of our Appropriations Subcommittee. Silicon Valley lawmaker backs Apple in terror case	

-1



Getty Images

By Cory Bennett - 82/18/18/88/38 F8/1EST

Rep. Mike Honda (D-Calif.), whose district includes Silicon Valley, on Thursday backed Apple as it battles against a court order to unlock one of the San Bernardino shooter's iPhones.

"I am proud to stand beside Tim Cook, Apple and the central beliefs our nation was founded on," said Honda, who represents Cupertino, Calif., where Apple's headquarters are located.

"Apple should not be forced to violate the privacy of its customers," he added, aligning himself with numerous other tech-focused lawnakers.

The FBI wants Apple to assist in bypassing some of the security features on a government-owned iPhone 5c used by Syed Rizwan Farook for his job at a local health department. The agency says the phone could contain information valuable to its investigation into the San Bernardino, Calif., terror attacks that left 14 people dead in December.

Several Republican lawmakers and GOP president candidates have called on Apple to comply with the request.

But the tech giant has resisted, arguing such a move would force the company to create new software that amounts to a "back door" into the encrypted device. This type of software is "too dangerous to create," Apple said, because it could give hackers and cyber spies a road map to infiltrate all iPhones.

The standoff is expected to lead to a protracted legal battle that could determine the future of access to encrypted devices.

"Our police and intelligence services must not be allowed to force Apple to create software or hardware that would usher in the opportunity for hackers to violate the iPhone," Honda said.

The lawnsker cited numerous historical examples where the government violated people's "fundamental rights" in the name of national security, including blacklists during the 1950s Red Scare and the Japanese-American interminent camps during World War II, which Honda personally experienced in childhood.

"Each was an example of fear for our safety overriding our dedication and adherence to our principles," he said. "Each time, the result was the same, we violated the fundamental rights of our people, with no added security."

Honda said the FBI's request is another example of overreach. "Defending our people must be done with the pride in the independent spirit and resolve that built our nation, not with the tyramical impulses that were the very reason our country was created," he said. Honda's stance could have an impact on his reelection campaign this fall. From: Kelly, Stephen D. (DO) (FBI) Sent: Friday, February 19, 2016 1:09 PM To: Mccabe, Andrew G. (DO) (FBI); Hess, Amy S. (DO) (FBI); Baker, James A. (OGC) (FBI); Steinbach, Michael B. (DO) (FBI); Oconnell, Sasha C. (DO) (FBI); Sleeper, Kerry (CTD) (FBI); Kortan, Michael P. (DO) (FBI); L. (DO) (FBI) Cc: Haley, Richard L. (FD) (FBI); (FD) (FBI); Beers, Elizabeth R. (DO) (FBI); (DO) (FBI) Subject: Draft TPs - GD Apple Litigation Here's a draft of very high-level TPs on Apple litigation. This is not intended to be his general statements on GD; rather, TPs in response to Apple-specific questions. Please send edits/suggests/corrections etc to me, and I'll work to incorporate into new document for circulation prior to meeting with Director on Monday. - Stephen Stephen D. Kelly Assistant Director Office of Congressional Affairs

b6 -1

Federal Bureau of Investigation

b6 -1

Rybicki, James E. (DO) (FBI) From: Saturday, February 20, 2016 12:21 PM Sent: To: b6 -1 Cc: J Rybicki RE: Fyi Subject: Copy. ----- Original message -----From: Date: 02/20/2016 12:13 PM (GMT-05:00) To: "Rybicki, James E. (DO) (FBI)" <James.Rybicki@ic.fbi.gov> b6 -1 Cc: J Rybicki Subject: Fyi

I have no email connection on my FBI phone.

Rybicki, James E. (DO) (FBI)

Rybicki, James E. (DO) (FBI)

From: Rybicki, James E. (DO) (FBI)

Sent: Tuesday, February 23, 2016 1:29 PM

To: b6 -1



Rybicki, James E. (DO) (FBI)

From: Rybicki, James E. (DO) (FBI)

Sent: Thursday, March 31, 2016 8:22 PM

To: J Rybicki
Subject: Fwd:

Attachments: [Untitled].pdf

----- Original message -----

From: "Rybicki, James E. (DO) (FBI)" <James.Rybicki@ic.fbi.gov>

Date: 03/31/2016 6:36 PM (GMT-05:00)

To: "Rybicki, James E. (DO) (FBI)" <James.Rybicki@ic.fbi.gov>

Subject:

Please open the attached document. This document was digitally sent to you using an HP Digital Sending device.

GMAN EMATIS

LATE LAST SUMMER, THE DIRECTOR OF the Federal Bureau of Investigation, James Comey, met with John Giacalone, the bureau official responsible for everything from counterterrorism to counterintelligence across the U.S. Giacalone, a fireplug of a man who started out as a New York City field agent battling organized crime in the 1990s, wanted to brief Comey on a high-profile issue that had been referred to the bureau by the Inspector General of the Intelligence Community. Emails found on the private, unclassified server used by Hillary Clinton as Secretary of State contained classified information; Giacalone's National Security Branch wanted to investigate how the secrets got there and whether anyone had committed a crime in the process. Comey was clear about one thing. "He wanted to make sure it was treated the same way as all other cases," says Giacalone, who left the bureau in February.

Seven months later, 20 to 30 agents, technical specialists and analysts have been assigned to the investigation, according to sources familiar with it. The agents have conducted interviews and done forensic analysis of the evidence collected. And they have executed process, the sources say, referring to a category of investigative tools that can include, among other things, subpoenas. As they near the end of the investigation, the agents are preparing to interview several of Clinton's closest aides, and perhaps the candidate herself, according to the sources, a move Clinton campaign officials say she will comply with. Attorney General Loretta Lynch told Congress on Feb. 24 that she is awaiting a recommendation from Comey and the FBI on whether anyone should be charged.

Many Americans have come to know Comey, 55, as the face of the FBI in its fight with Apple over access to the encrypted iPhone used by one of the ISIS followers who killed 14 people in San Bernardino, Calif., on Dec. 2. After the Justice Department sued Apple for access to the contents of the phone, Comey spoke about the dangers of the company's resistance and its widespread use of encryption. Apple CEO Tim Cook pushed back hard, saying in an interview with TIME that the FBI's request "could wind up putting millions of customers at risk." Then, just a day before a key hearing on March 22, the bureau backed down. A week later, it announced it had gained access to the phone through an unidentified third party and no longer needed Apple's help. The bureau has since dropped the case, but the episode is a reminder of the deepening complexity of law enforcement in a digital age.

Compared with solving the Apple puzzle, the case of the Clinton emails looks on the surface like a straight-up job, the kind of leak investigation the bureau undertakes several times a year. But these are not straight-up times. Clinton is the front runner for the Democratic nomination. Some 67% of Americans already say she is neither honest nor trustworthy, according to a February poll by Quinnipiac University. That impression is bolstered by the steps she and her aides took that kept even her routine State Department emails beyond the reach of normal federal record-keeping procedures, an effort made clear in emails released in the wake of lawsuits brought under the Freedom of Information Act over the past 18 months. If FBI agents take steps that suggest Clinton is personally under suspicion, it could change the course of the campaign.

Comey is keeping a close watch on the investigation, getting briefings from team leaders and personally overseeing the case. Agents have been told they may be polygraphed to prevent leaks, the sources familiar with the probe say. "I want to ensure [the Clinton email investigation] is done in the ways the FBI does all its work: professionally, with integrity, promptly," Comey told Congress in February. "And without any interference whatsoever."

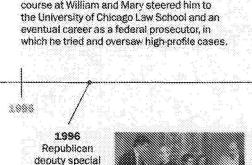
When the agents have run down all their leads, the sources say, Comey will present the evidence to Lynch, along with his assessment of what it shows. Some Republicans are referring to his recommendation as the "Comey primary" in the hopes it will sway the election their way. That may be wishful thinking, but one thing is clear: Comey has spent much of his career investigating and occasionally confronting high-profile public figures.

EVERY MORNING at 7:30 when Comey arrives for work at the bureau's ugly and brooding concrete headquarters on Pennsylvania Avenue, the name over the door

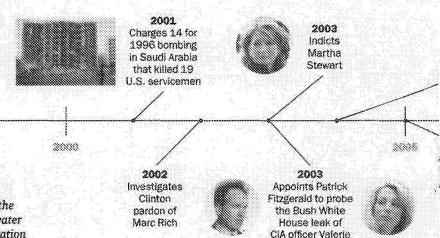
Plame's identity

A CAREER FIGHTING CRIME

Comey planned to be a doctor, but a religion course at William and Mary steered him to the University of Chicago Law School and an eventual career as a federal prosecutor, in



Comey. far left, during the Whitewater investigation



counsel on

the Senate

Whitewater Committee serves as a reminder that the FBI has sometimes played by its own rules. The bureau's first leader, J. Edgar Hoover, for whom the building is named, spied on everyone from Cabinet officials to political dissidents and even tried to blackmail Martin Luther King Jr., whom he viewed as a national-security threat. Mindful of that history, Presidents have more recently chosen FBI directors with a puritanical devotion to political independence. Louis Freeh and Robert Mueller were obsessively upright former prosecutors. Freeh viewed himself as a scourge of politicized justice, real or imagined; Mueller, a former Marine, ruled the FBI with an iron fist as he remade it after 9/11. Both came into conflict with the Presidents who had appointed them.

Comey too comes from the world of federal prosecutors and projects the same air of rectitude that Freeh and Mueller do. Growing up in New Jersey, he had planned on being a doctor, but after taking a course on death at the College of William and Mary, he ended up graduating with a double major in chemistry and religion. He met his wife of 28 years there (they have five children), then went on to law school at the University of Chicago and clerked on the federal appeals court in lower Manhattan. In 1987, Rudy Giuliani hired him as an attorney in the powerful prosecutor's office of the Southern District of New York.

It was in the 1990s that Comey got his first experience navigating the treacherous confluence of law and politics. LookComey once said prosecutors who had perfect records because they took only easy cases were part of the 'chickensh-t club'

ing to get back into government after a stint in private practice, Comey signed on as deputy special counsel to the Senate Whitewater Committee, impaneled to look into, among other things, a minor Clinton real estate deal gone bad. In 1996, after months of work, Comey came to some damning conclusions: Hillary Clinton was personally involved in mishandling documents and had ordered others to block investigators as they pursued their case. Worse, her behavior fit into a pattern of concealment: she and her husband had tried to hide their roles in two other matters under investigation by law enforcement. Taken together, the interference by White House officials, which included destruction of documents, amounted to "far more than just aggressive lawyering or political naiveté," Comey and his fellow investigators concluded. It constituted "a highly improper pattern of deliberate misconduct."

It wasn't the last time he would cross paths with the Clintons. Comey parlayed the Whitewater job into top posts in Virginia and New York, returning to Manhattan in 2002 to be the top federal prosecutor there. One of his first cases 15 years earlier had been the successful prosecution of Marc Rich, a wealthy international financier. But on his last day as President in 2001, Bill Clinton pardoned Rich. "I was stunned," Comey later told Congress. As top U.S. prosecutor in New York in 2002, appointed by George W. Bush, Comey inherited the criminal probe into the Rich pardon and 175 others Clinton had made at the 11th hour.

Despite evidence that several pardon recipients, including Rich, had connections to donations to Bill Clinton's presidential library and Hillary Clinton's 2000 Senate campaign, Comey found no criminal wrongdoing. He was careful not to let the investigation be used for political purposes by either party. When pressed for details in one case, he said, "I can't really go into it because it was an investigation that didn't result in charges. That may be a frustrating answer, but that's the one I'm compelled to give."

Comey's probity didn't prevent him from taking on other high-profile cases. He once said prosecutors who amassed perfect records at trial by taking only easy, noncontroversial cases were members of the "chickensh-t club," according to several assistant U.S. Attorneys who worked for him. Comey showed he meant it in 2003, when he led the case against Martha Stewart for making false statements during an insider-trading investigation.

2004 Briefly blocks NSA Stellar Wind program



Comey worked as deputy to Attorney General John Ashcraft during the Bush Administration

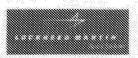
2003.0

2013
Picked by
Obama to
be seventh
FBI director



2016 Fights Apple over access to iPhone 5c

2905
Leaves government
to become
general counsel at
Lockheed Martin



2016
Joins
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hedge fund
as general
counsel



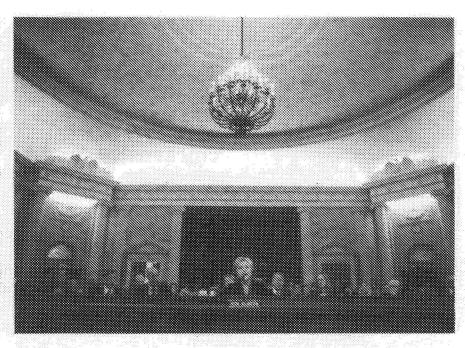


He won a conviction on all counts thanks to the testimony of one witness, but it was a close call. Comey later said he had almost not taken the case but chose to risk it because he thought that his hesitation was due to Stewart's "being rich and famous, and [that] it shouldn't be that way."

Clearing Clinton in the pardons case didn't hurt Comey with Bush. In 2003, Bush promoted him to be Attorney General John Ashcroft's No. 2. GOP hard-liners would quickly come to rue the pick. Filling in for Ashcroft, who recused himself from the case, Comey appointed his old partner in New York Mcb prosecutions, Patrick Fitzgerald, to look into the leak of the identity of CIA officer Valerie Plame, a case that would ultimately snare Vice President Dick Chency's chief of staff Scooter Libby and damage the White House in the aftermath of the Iraq War.

Comey's most dramatic moment came in a 2004 confrontation with Bush's White House counsel, Alberto Gonzales. The Justice Department had concluded that part of the National Security Agency's Stellar Wind program of blanket telephone-metadata collection was illegal. Comey, who was running the department after Ashcroft went on leave with a sudden illness, refused to recertify the legality of the program when it expired in March 2004, though West Wing hardliners led by Cheney were pushing hard for it. Late on the evening of March 10, Comey heard that Gonzales was on his way to George Washington Hospital in Foggy Bottom to try to get the bedridden Ashcroft to sign an authorization for Stellar Wind instead. Comey ordered his FBI driver to speed him to the hospital, lights flashing, in an attempt to prevent it.

Comey arrived minutes before Gonzales, and after pushing his 6-ft. 8-in. frame up several flights of stairs, briefed the semiconscious Ashcroft on what was about to happen. With the help of then FBI Director Mueller, Comey assumed authority over the security detail in the room. Others present worried there might be an armed confrontation between those agents and Gonzales' Secret Service detail if Gonzales attempted to have Comey removed from the room. But when Gonzales arrived and asked Ashcroft to authorize Stellar Wind, Ashcroft rebuffed him, telling him Comey was in charge. Gonzales left empty-handed.



Clinton testified about her private email arrangement before the House Select Committee on Benghazi last October

Days later, after Comey, Mueller and other top Justice Department officials threatened to resign if Bush ordered the NSA to continue using Stellar Wind without the department's approval, Bush altered the secret program to comply with their legal requirements. Comey "was miraculously great," says Harvard law professor Jack Goldsmith, who was one of a handful of witnesses to the hospital scene as a top Justice Department lawyer.

COMEY'S STAND against Gonzales didn't end there, and its fallout has implications for the current Clinton email case. In May 2007, Comey had left government, and Gonzales, who had replaced Ashcroft atop the Justice Department, was clinging to his job amid unrelated scandals. Comey surprised the top Democratic staffer on the Senate Judiciary Committee by agreeing to make public the details of the hospitalroom encounter for the first time in compelling open testimony. The hearing was designed to force Gonzales out, and ultimately it worked. Comey's testimony led to the discovery by White House lawyers that Gonzales had improperly stored

classified notes on Stellar Wind, which in turn led to his resignation that August, according to top Bush White House officials. Comey and Gonzales both declined to comment on the matter.

Comey's testimony enraged hardliners but earned him unrivaled respect in Congress and at Justice, where top officials have long understood the challenge of remaining independent of political influence. Comey's most important supporter turned out to be President Obama's first Attorney General, Eric Holder. Comey had bluntly criticized Holder for approving the Marc Rich pardon as acting Attorney General on Clinton's last day in office, calling it a "huge misjudgment." But Comey told Congress that Holder had paid for the error "dearly in reputation." When Mueller stepped down in 2013, Holder recommended Comey, a Republican, as one of two candidates to take over the FBI.

In his early days as FBI boss, top aides say, Comey thought terrorism might be a fading problem. Osama bin Laden was dead, al-Qaeda's core had been severely weakened, and ISIS was little more than a band of fanatics operating in the noman's-land between Syria and Iraq. But after the terrorist group's surge toward Baghdad in the first half of 2014, Obama approved air strikes against it. Within weeks, the group began beheading American captives, and a leading ISIS figure,

Abu Muhammad al-Adnani, posted an English-language call to arms for followers to attack Americans around the world. Within months, FBI agents reported a spike in the number of possible ISIS followers in the U.S.

Comey responded with more agents and an increased emphasis on intelligence collection. In 2015, the bureau saw only a slight increase in the overall number of arrests of those supporting terrorists in the U.S. but a fivefold increase in the number of those arrested who followed ISIS. "This ISIL threat is not your parents' al-Qaeda," Comey told House members on Feb. 25. He says terrorists no longer hatch plots in faraway places but rather "crowdsource" terrorism by inspiring and motivating domestic supporters like the couple behind the San Bernardino attack.

That event merged with the second big challenge of his tenure: the danger of criminals and terrorists "going dark" as encryption becomes more widely used. Comey says the use of encrypted smartphones means his agents can't collect evidence to prosecute and prevent crimes and terrorist attacks, even when they have a court warrant. Comey, who uses a government-issued phone for work and has an iPhone for personal use, told the House in February, "These phones are wonderful. I love them." But he argued two days earlier that there are "increasing situations where we cannot, with lawful court orders, read the communications of terrorists, gangbangers, pedophiles-all different kinds of bad people."

This concern drove Comey's highestprofile moment so far in his job atop the FBI. Within hours of the San Bernardino attack, agents recovered the governmentissued iPhone 5c of shooter Syed Farook. After getting a court-ordered warrant, the FBI took the phone to its Regional Computer Forensic Laboratory and, with the help of Apple, gained access to information stored in the phone's server-based account. But when the agents tried to access the phone's internal records, they couldn't get past the four-digit pass code, which was set to wipe the phone's memory after more than 10 failed tries. When Apple refused to create software to circumvent that feature, Comey approved taking the company to court. On March 28 the Justice Department announced it did not need Apple to crack the phone after all.

FOR NOW, Comey's power to access every Apple phone in the world remains hypothetical; the potential effect of the Clinton email probe on the presidential election is very real. The State Department has said that 22 of the documents on Clinton's private server contained information classified at the highest level, top secret. Those documents were based on intelligence generated not by State but by other agencies like the CIA and NSA. Because those secrets tend to come from some of the government's most sensitive sources, such as human spies or expensive satellites, they are protected by special penalties under the Espionage Act, which provides for up to 10 years in prison for some violations.

But none of the classified documents found on Clinton's server was marked classified when it was sent or received. And the standard for conviction in a leak case is high: the suspect must knowingly store the secrets improperly or show gross negligence in their handling. In most cases, Clinton's close aides received documents from others in the department and passed them along to their boss. To figure out if anyone acted knowingly or with gross negligence, agents have conducted interviews. The Justice Department has reached an immunity agreement with the aide who set up Clinton's server.

There is always a chance that agents poring over Clinton's 50,000 pages of emails could come across something unrelated that they think warrants a closer look and the investigation could spread. That is how the probe of a busted land deal in 1994 led to the impeachment of Bill Clinton four years later over lying about an affair. While there have been multiple reports of foreign companies and countries making contributions to Bill Clinton's foundation or paying him

Comey's power to access every Apple phone in the world is hypothetical; the potential effect of the Clinton probe on the election is real for speeches at the same time that they had issues before the State Department, it is far from clear that any of that would be a violation of law, whatever some Republicans might hope. But the FBI's Domestic Investigations and Operations Guide sets a very low bar for an initial information-gathering effort known as an "assessment."

The classification probe remained an assessment for a time but is now an investigation, according to the sources familiar with it. The FBI will be looking not only at the handling of classified information but also at the Clinton team's response to the probe itself. Clinton erased 30,000 personal emails from her private server before handing it over to investigators. Republicans have repeatedly alleged, without proof, that in the process she destroyed incriminating evidence about her handling of government matters, including the attack by terrorists on the U.S. outpost in Benghazi, Libya.

Lawyers preparing Clinton and her aides for possible interviews are well aware that Comey has a history of prosecuting those who impede investigators. Cheney's aide Libby was convicted not of leaking Plame's identity but of obstructing justice, as was Martha Stewart. Comey had a front-row seat to Clinton's controversial handling of documents in the Whitewater case. Ultimately the Senate committee he worked for two decades ago found no criminal wrongdoing but issued a politically damaging report anyway. Clinton campaign official Brian Fallon says that the FBI has not requested an interview with her yet and that she remains ready to cooperate with the probe. "She first expressed her willingness to cooperate in any way possible last August," says Fallon, "and that included offering to meet with them and answer any questions they might have."

Comey's recommendation to Lynch, when it comes, could include a description of the evidence; what laws, if any, might have been violated; and how confident he is in the results of the probe, the sources familiar with the investigation tell TIME. What will come of the Comey primary? Says Giacalone: "If the evidence is there, it's there. If it leads to something inconclusive, or nothing, he's not going to recommend filing charges."

(DO)	(FBI)			
From: Sent: To: Subject: Attachments:	(DO) (FBI) Monday, April 18, 2016 11:12 AM J Rybicki; James B. Comey Fwd: Summary of Microsoft Case for the Director Microsoft ECPA-Complaint.pdf; microsoft.2.docx	1		
Director - Attached is the summary of the Microsoft case as requested. Thanks				
Original message From: "Baker, James A. (OGC) (FBI)" <james.baker@ic.fbi.gov> Date: 04/18/2016 10:51 AM (GMT-05:00) To: "Rybicki, James E. (DO) (FBI)" <james.rybicki@ic.fbi.gov>, (DO) (FBI)"</james.rybicki@ic.fbi.gov></james.baker@ic.fbi.gov>				
Cc: "Kortan, Michael P. (DO) (FBI)" < Michael.Kortan@ic.fbi.gov>, (OGC) (FBI)" Subject: Summary of Microsoft Case for the Director b6 -1				
Attached is a short summary of the Microsoft case (and the complaint) for the Director per his request. Please let me know what else he needs. Thanks.				

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON 8 AT SEATTLE 9 Microsoft Corporation, 10 No. Plaintiff, 11 COMPLAINT FOR DECLARATORY JUDGMENT V. 12 The United States Department of Justice, and 13 Loretta Lynch, in her official capacity as Attorney General of the United States, 14 Defendants. 15 16 Microsoft Corporation ("Microsoft") alleges as follows.

INTRODUCTION

1. Microsoft brings this case because its customers have a right to know when the government obtains a warrant to read their emails, and because Microsoft has a right to tell them. Yet the Electronic Communications Privacy Act ("ECPA") allows courts to order Microsoft to keep its customers in the dark when the government seeks their email content or other private information, based solely on a "reason to believe" that disclosure might hinder an investigation. Nothing in the statute requires that the "reason to believe" be grounded in the facts of the particular investigation, and the statute contains no limit on the length of time such secrecy orders may be kept in place. 18 U.S.C. § 2705(b). Consequently, as Microsoft's customers increasingly store their most private and sensitive information in the cloud, the government increasingly seeks (and obtains) secrecy orders under Section 2705(b). This

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statute violates both the Fourth Amendment, which affords people and businesses the right to know if the government searches or seizes their property, and the First Amendment, which enshrines Microsoft's rights to talk to its customers and to discuss how the government conducts its investigations—subject only to restraints narrowly tailored to serve compelling government interests. People do not give up their rights when they move their private information from physical storage to the cloud. Microsoft therefore asks the Court to declare that Section 2705(b) is unconstitutional on its face.

- 2. Before the digital age, individuals and businesses stored their most sensitive correspondence and other documents in file cabinets and desk drawers. As computers became prevalent, users moved their materials to local computers and on-premises servers, which continued to remain within the user's physical possession and control. In both eras, the government had to give notice when it sought private information and communications, except in the rarest of circumstances.
- 3. Cloud computing has spurred another profound change in the storage of private information. Today, individuals increasingly keep their emails and documents on remote servers owned by third parties, i.e., in the cloud, using free web-based services such as Microsoft's Outlook.com. Businesses have also migrated their information technology infrastructure to servers hosted by providers such as Microsoft, which offer productivity software (e.g., Microsoft's Office365) and the ability to access correspondence and other documents from any device. But the transition to the cloud does not alter the fundamental constitutional requirement that the government must—with few exceptions—give notice when it searches and seizes the private information or communications of individuals or businesses.
- 4. The government, however, has exploited the transition to cloud computing as a means of expanding its power to conduct secret investigations. As individuals and business have moved their most sensitive information to the cloud, the government has increasingly adopted the tactic of obtaining the private digital documents of cloud customers not from the customers themselves, but through legal process directed at online cloud providers like

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Microsoft. At the same time, the government seeks secrecy orders under 18 U.S.C. § 2705(b) to prevent Microsoft from telling its customers (or anyone else) of the government's demands. These secrecy orders generally assert that abiding by the centuries-old requirement of seeking evidence directly from its owner would jeopardize the government's investigation. Most of the time, these secrecy orders prohibit notification for unreasonably long (or even unlimited) periods of time, which Section 2705(b) permits whenever a court has "reason to believe" any of several adverse consequences might otherwise ensue—including any time notice would "seriously jeopardiz[e] an investigation or unduly delay[] a trial."

- 5. Over the past 18 months, federal courts have issued nearly 2,600 secrecy orders silencing Microsoft from speaking about warrants and other legal process seeking Microsoft customers' data; of those, more than two-thirds contained no fixed end date. (In fact, of the twenty-five secrecy orders issued to Microsoft by judges in this District, none contained a time limit.) These twin developments—the increase in government demands for online data and the simultaneous increase in secrecy—have combined to undermine confidence in the privacy of the cloud and have impaired Microsoft's right to be transparent with its customers, a right guaranteed by the First Amendment.
- 6. There may be exceptional circumstances when the government's interest in investigating criminal conduct justifies an order temporarily barring a provider from notifying a customer that the government has obtained the customer's private communications and data. But Section 2705(b) sweeps too broadly. That antiquated law (passed decades before cloud computing existed) allows courts to impose prior restraints on speech about government conduct—the very core of expressive activity the First Amendment is intended to protect even if other approaches could achieve the government's objectives without burdening the right to speak freely. The statute sets no limits on the duration of secrecy orders, and it permits prior restraints any time a court has "reason to believe" adverse consequences would occur if the government were not allowed to operate in secret. Under the statute, the assessment of adverse consequences need not be based on the specific facts of the investigation, and the assessment is

made *only* at the time the government applies for the secrecy order, with no obligation on the government to later justify continued restraints on speech even if circumstances change because, for instance, the investigation is closed or the subject learns of it by other means. It also permits those restraints based on the application of purely subjective criteria, such as a finding that notice would "jeopardiz[e] an investigation" in unspecified ways or "unduly delay a trial." Section 2705(b) is therefore facially overbroad under the First Amendment, since it does not require the government to establish that the continuing restraint on speech is narrowly tailored to promote a compelling interest.

- 7. The statute also violates the Constitution's protection against unreasonable searches and seizures. The Fourth Amendment's requirement that government engage only in "reasonable" searches necessarily includes a right for people to know when the government searches or seizes their property. *See Wilson v. Arkansas*, 514 U.S. 927, 934 (1995). For example, if the government comes into a person's home to seize her letters from a desk drawer or computer hard drive, that person in almost all circumstances has the right to notice of the government's intrusion. The same is true when the government executes a search of a business to seize emails from the business's on-site server. But Section 2705(b) subjects Microsoft's cloud customers to a different standard merely because of how they store their communications and data: the statute provides a mechanism for the government to search and seize customers' private information *without* notice to the customer, based upon a constitutionally insufficient showing. In so doing, Section 2705(b) falls short of the intended reach of Fourth Amendment protections, which do not depend on the technological medium in which private "papers and effects" are stored.
- 8. For these reasons, Microsoft asks the Court to declare that Section 2705(b) is unconstitutional on its face.

PARTIES

9. *Microsoft.* Microsoft is a corporation organized and existing under the laws of the State of Washington, with its principal place of business at One Microsoft Way, Redmond,

Washington 98052. Microsoft has standing to bring this action because of the repeated invasion of its First Amendment rights through the issuance of indefinite and insufficiently substantiated secrecy orders, its interest in upholding its public commitment to safeguard the privacy of its customers' sensitive emails and documents without violating court orders, its right to invoke the Fourth Amendment rights of its customers (who have no practical means of enforcing those rights), and its interest in avoiding findings of contempt.

- 10. The United States Department of Justice. The United States Department of Justice is an agency of the executive branch of the federal government, employees of which regularly apply for secrecy orders under 18 U.S.C. § 2705(b) and serve those secrecy orders on providers, including Microsoft.
- 11. Loretta Lynch. Loretta Lynch, sued in her official capacity only, is the Attorney General of the United States. Attorney General Lynch has ultimate authority over the United States Department of Justice, employees of which regularly apply for secrecy orders under 18 U.S.C. § 2705(b) and serve those secrecy orders on providers, including Microsoft.

JURISDICTION AND VENUE

- 12. *Jurisdiction.* This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the action concerns federal questions, and pursuant to 28 U.S.C. §§ 2201 and 2202 because this is a civil action for a declaratory judgment.
- 13. **Venue.** Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) because Microsoft has its headquarters and principal place of business in this District and because Microsoft's speech, in the absence of a secrecy order, would emanate in substantial part from this District.

MICROSOFT'S CLOUD SERVICES

14. *Cloud Computing.* As they migrate their communications and documents to the cloud, individuals and businesses have increasingly entrusted Microsoft and other providers with their most private information—what the Supreme Court has referred to as a "cache of sensitive personal information." *Riley v. California*, 134 S. Ct. 2473, 2490 (2014). A customer

that stored paper documents in file cabinets or emails on on-site servers would generally know contemporaneously about the execution of a warrant by law enforcement—and would be able to assert any rights concerning any documents or data seized during the search. A customer storing documents and emails remotely in the cloud should be in the same position. That is, cloud customers should be able to trust they will know if they become the targets of warrants or other legal process authorizing the seizure of sensitive information.

- 15. **Secrecy Orders.** Secrecy orders issued under Section 2705(b) allow the government to seek electronic communications and other private data under a veil of prolonged (or even indefinite) secrecy. The government's use of legal process directed at cloud providers such as Microsoft, when combined with accompanying secrecy orders, amounts to a substantial expansion of law enforcement's ability to engage in secret search and seizure activity, adversely affecting both Microsoft's right to communicate with its customers and the customers' privacy interests—simply because customers have moved their information to the cloud.
- 16. The Frequency of Secrecy Orders. Between September 2014 and March 2016, Microsoft received 5,624 federal demands for customer information or data. Of those, nearly half—2,576—were accompanied by secrecy orders, forbidding Microsoft from telling the affected customers that the government was looking at their information. The vast majority of these secrecy orders related to consumer accounts and prevent Microsoft from telling affected individuals about the government's intrusion into their personal affairs; others prevent Microsoft from telling business customers that the government has searched and seized the emails of individual employees of the customer. Further, 1,752 of these secrecy orders contained no time limit, meaning that Microsoft could forever be barred from telling the affected customer about the government's intrusion. The government has used this tactic in this District. Since September 2014, Microsoft received 25 secrecy orders issued in this District, none of which contained any time limit. These secrecy orders prohibit Microsoft from speaking about the government's specific demands to anyone and forbid Microsoft from ever

telling its customers whose documents and communications the government has obtained. The secrecy orders thus prevent Microsoft's customers and the public at large from ever learning the full extent of government access to private, online information.

STATUTORY OVERVIEW

17. **Section 2705(b).** Congress enacted Section 2705(b) as part of the Electronic Communications Privacy Act of 1986 ("ECPA"). Section 2705(b) provides, in its entirety:

(b) PRECLUSION OF NOTICE TO SUBJECT OF GOVERNMENTAL ACCESS.—A governmental entity acting under section 2703, when it is not required to notify the subscriber or customer under section 2703(b)(1), or to the extent that it may delay such notice pursuant to subsection (a) of this section, may apply to a court for an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order. The court shall enter such an order if it determines that there is reason to believe that notification of the existence of the warrant, subpoena, or court order will result in—

- (1) endangering the life or physical safety of an individual;
- (2) flight from prosecution;
- (3) destruction of or tampering with evidence;
- (4) intimidation of potential witnesses; or
- (5) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

18. *Effect of Statute*. Microsoft is a "provider of electronic communications service or remote computing service" as those terms are used in the statute. Under the plain terms of Section 2705(b), a court therefore may order Microsoft "not to notify *any other person* of the existence" of a legal demand for its customer's emails and documents. A court may issue such an order "for such period as the court deems appropriate," without any requirement that the government advise the court of any change in circumstances bearing upon the government's initial asserted need for nondisclosure. Thus, for example, a secrecy order may prevent Microsoft from informing a customer of the intrusion even after the government's

investigation ends or becomes public through other means. Under the statute, a court is not required to consider whether a secrecy order is narrowly tailored to further the government's asserted interests and whether there are less restrictive alternatives. Indeed, the statute contemplates that the court "shall enter such an order" without weighing whether less restrictive alternatives are available. Further, Section 2705(b) allows the court to issue a secrecy order whenever it finds "reason to believe" that any of five adverse results would otherwise occur, including when notification "will result in ... otherwise seriously jeopardizing an investigation or unduly delaying a trial."

- 19. *Comparison to Section 2705(a).* Section 2705(b) is notably different from its parallel provision, Section 2705(a), which applies to certain forms of legal process issued under ECPA, 18 U.S.C. § 2703(b)(1)(B). When the government requires a provider to disclose information under this provision, the government itself has an affirmative obligation to notify the customer. Section 2705(a) permits the government to delay its notice when "there is reason to believe" notification will trigger the same five adverse results listed in Section 2705(b). But even though Section 2705(a) relies on exactly the same government interests as Section 2705(b) to justify withholding notice, Section 2705(a) authorizes a delay of only a definite and fixed duration—90 days—and requires the government to justify any further delays in notification. In other words, in Section 2705(a), Congress determined that withholding notice for no more than 90 days satisfied the five government interests enumerated in both Section 2705(a) and Section 2705(b), subject only to the government's right to renew the period of delayed upon making a further showing.
- 20. **Searches in the Physical World.** By allowing the government to operate behind a veil of secrecy, Section 2705(b) also differs from similar forms of process in the physical world. For example, although 18 U.S.C. § 3103a authorizes so-called "sneak and peek" warrants for secret searches—the only permissible means of executing search warrants of physical documents without notice—that provision presumptively requires the government to notify the target of the search "within a reasonable period not to exceed 30 days after the date

of its execution." 18 U.S.C. § 3103a(b)(3). The statute permits extensions of this deferred notice, but "subject to the condition that extensions should only be granted upon an updated showing of the need for further delay and that each additional delay should be limited to periods of 90 days or less." 18 U.S.C. § 3103a(c). While these provisions permit delays of longer than 30 and 90 days "if the facts of the case justify a longer period of delay," the statute imposes temporal baselines lacking in Section 2705(b).

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COUNT I

REQUEST FOR DECLARATORY RELIEF -

INVALIDITY OF SECTION 2705(b) UNDER THE FIRST AMENDMENT

- Overbreadth Doctrine. "When the Government restricts speech, the Government bears the burden of proving the constitutionality of its actions." Comite de Jornaleros de Redondo Beach v. City of Redondo Beach, 657 F.3d 936, 944 (9th Cir. 2011) ("Comite de Jornaleros") (internal quotation marks omitted). "In a facial challenge to a law's validity under the First Amendment, the law may be invalidated as overbroad if a substantial number of its applications are unconstitutional, judged in relation to the statute's plainly legitimate sweep." Id. (internal quotation marks omitted).
- 22. **Presumptive Invalidity of Prior Restraints.** A secrecy order "imposes a prior restraint on speech." In re Sealing and Non-Disclosure of Pen/Trap/2703(d) Orders, 562 F. Supp. 2d 876, 882 (S.D. Tex. 2008) ("In re Sealing"). Any prior restraint "bear[s] heavy presumption against its constitutional validity," and the government has a "heavy burden of showing justification for the imposition of such a restraint." Capital Cities Media, Inc. v. Toole, 463 U.S. 1303, 1305 (1983). Thus, because Section 2705 on its face authorizes the issuance of secrecy orders that operate as a prior restraint on Microsoft's speech, the government's burden of justifying the restraint is particularly heavy. The statute authorizes secrecy orders that prohibit, ex ante, providers such as Microsoft from engaging in core protected speech under the First Amendment, i.e., speech about the government's access to customers' sensitive communications and documents and its increased surveillance on the

Internet. "Whatever differences may exist about interpretations of the First Amendment, there is practically universal agreement that a major purpose of that Amendment was to protect the free discussion of governmental affairs." *Mills v. Alabama*, 384 U.S. 214, 218 (1971).

- Section 2705(b) also function as content-based restrictions on speech, as "they effectively preclude speech on an entire topic—the [accompanying] order and its underlying criminal investigations." *In re Sealing*, 562 F. Supp. 2d at 881. Like prior restraints, "[c]ontent-based regulations are presumptively invalid" and subject to strict scrutiny. *R.A.V. v. City of St. Paul*, 505 U.S. 377, 382 (1992). They may be upheld only if they are "narrowly tailored to promote a compelling Government interest." *United States v. Playboy Entm't Group, Inc.*, 529 U.S. 803, 813 (2000). "If a less restrictive alternative would serve the Government's purpose, the legislature must use that alternative." *Id.*
- 24. **Presumptive Openness of Government Records.** Secrecy orders also improperly inhibit the public's right of access to search warrants under both the common law and the First Amendment. Upon application by a party, the press, or the public, search warrants generally must be unsealed after investigations are concluded. **See United States v.**Bus. of Custer Battlefield Museum & Store, 658 F.3d 1188, 1194-95 (9th Cir. 2011) (access to search warrant materials may be denied only where "compelling reasons" outweigh presumption of disclosure). But when a search warrant is accompanied by an indefinite secrecy order, the public and the press—like the affected customer—may have no idea a warrant has been issued. As a result, even after the government concludes an investigation, the public and the press may have no effective way to learn about, discuss, and debate the government's actions.
- 25. *Overbreadth of Section 2705(b)*. Section 2705(b) facially violates the First Amendment because a substantial number of its applications are unconstitutional under these standards, when judged in relation to the statute's legitimate sweep. This overbreadth manifests itself in at least three ways.

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- 26. *Indefinite Duration*. First, Section 2705(b) is unconstitutional because it permits secrecy orders "for such period as the court deems appropriate." Because this language at least allows a court to issue secrecy orders of a prolonged duration, and has been understood by dozens of courts (including this one) to authorize indefinite secrecy orders, the statute violates the First Amendment because it is not narrowly tailored to satisfy a compelling government interest. Even when circumstances initially justify a secrecy order as the narrowest means available to satisfy a compelling government interest, the First Amendment demands that the provider be free to engage in truthful speech about the government's activities as soon as secrecy is no longer required to satisfy that interest. *In re Sealing*, 562 F. Supp. 2d at 895 ("As a rule, sealing and non-disclosure of electronic surveillance orders must be neither permanent nor, what amounts to the same thing, indefinite."); In Matter of Search Warrant for [Redacted]@hotmail.com, 74 F. Supp. 3d 1184, 1185 (N.D. Cal. 2014) (reading Section 2705(b) to require a fixed end date on any secrecy order; observing the "First Amendment rights of both Microsoft and the public" were affected by such an order); In the Matter of the Grand Jury Subpoena for: [Redacted]@yahoo.com, 79 F. Supp. 3d 1091, 1091 (N.D. Cal., 2015) (denying government's application for indefinite order under Section 2705(b) because it would "amount to an undue prior restraint of Yahoo!'s First Amendment right to inform the public of its role in searching and seizing its information"). A secrecy order of a prolonged or indefinite duration will apply beyond the point when a compelling government interest requires it. As a result, to the extent it authorizes issuance of secrecy orders of prolonged or indefinite duration, Section 2705(b) violates the First Amendment on its face. See Butterworth v. Smith, 494 U.S. 624, 635-36 (1993) (state statute indefinitely banning witnesses from disclosing testimony given before a grand jury violates the First Amendment).
- 27. "Reason to Believe." Second, Section 2705(b) is unconstitutionally overbroad because it permits a court to issue a secrecy order whenever it has "reason to believe" notification would result in one of five listed adverse results. But the statute does not require that the "reason to believe" be grounded in the specific facts of a particular investigation, as

distinct from the government's overall experiences or other unspecified considerations. Further, the statute offers no guidance as to the evidentiary burden the government bears in showing a "reason to believe" sufficient to justify a secrecy order. And the "reason to believe" standard fails to require that a secrecy order be the least restrictive means available to further the government's interest in avoiding the specified adverse results, as the First Amendment requires to justify this sort of restraint. The "reason to believe" standard therefore falls far short of the "heavy burden" the First Amendment imposes when the government seeks to impose a prior restraint on speech.

- 28. The Overbroad Catchall. Third, Section 2705(b) allows a court to issue secrecy orders whenever it finds "reason to believe" notification of the target would "otherwise seriously jeopardiz[e] an investigation or unduly delay[] a trial." This subjective and vaguely-defined provision allows the issuance of secrecy orders in the absence of any compelling interest sufficient to justify a prior restraint or a content-based restriction on speech. There may be compelling circumstances not captured within the "adverse results" specifically enumerated in Section 2705(b)(1)-(4) that would justify a restraint on the provider's speech, but this catchall provision is substantially broader than necessary to account for those circumstances and provides no meaningful constraints. It therefore violates the First Amendment.
- 29. *Facial Overbreadth.* Because Section 2705(b) is overbroad in each of the ways described in the previous paragraphs, the government cannot overcome the presumption that the provision on its face violates the First Amendment.
- 30. *Judicial Declaration.* A judicial declaration that Section 2705(b) violates the First Amendment is necessary and appropriate so Microsoft may ascertain its obligations under law. Absent such a declaration, the government will continue to seek, and courts will continue to issue, secrecy orders that impermissibly restrict the First Amendment rights of Microsoft and similarly situated providers. And although Microsoft has the right to challenge individual orders (as it has done), the need for Microsoft repeatedly to expend time and effort challenging

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orders issued pursuant to a constitutionally flawed statute places an impermissible burden on its First Amendment rights.

COUNT II

REQUEST FOR DECLARATORY RELIEF—

INVALIDITY OF SECTION 2705(b) UNDER THE FOURTH AMENDMENT

- 31. *Notice under the Fourth Amendment.* Notice to an owner whose property is being searched or seized "is an element of the reasonableness inquiry under the Fourth Amendment." *Wilson v. Arkansa*s, 514 U.S. 927, 934 (1995); *see also United States v. Freitas*, 800 F.2d 1451, 1456 (9th Cir. 1986).
- Fourth Amendment if the "applications of the statute in which it actually authorizes or prohibits conduct" are unconstitutional. *City of Los Angeles v. Patel*, 135 S. Ct. 2443, 2451 (2015).

 Section 2705(b) is facially unconstitutional because, as discussed above, it permits secrecy orders that prohibit providers from telling customers when the government has accessed their private information and data, without requiring constitutionally sufficient proof of the existence of a compelling government interest and without temporally limiting the prohibition to the least restrictive period sufficient to satisfy the government's compelling interests. The constitutional injury is exacerbated by the fact that, under 18 U.S.C. § 2703(b)(1)(A), the government need not give *any* notice to a customer whose content it obtains by warrant. The interaction of these provisions means the government can access a customer's most sensitive information without the customer having any way to learn about, or challenge, the government's intrusion. This result flouts fundamental Fourth Amendment principles.
- 33. *Standards for Physical Search*. Section 2705(b)'s Fourth Amendment deficiency is underscored by comparison to the limits on the government's authority to conduct a search and seizure in the physical world. It has been established for centuries that, absent exigent circumstances, law enforcement must provide contemporaneous notice when

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	conducting a search or seizure. "The common-law principle that law enforcement officers must
	announce their presence and provide residents an opportunity to open the door is an ancient
	one." Michigan v. Hudson, 547 U.S. 586, 589 (2006). Even when exigent circumstances exist
	and thus allow law enforcement to conduct a search before providing notice, the government
	may delay notice only for a limited period of time. See 18 U.S.C. § 3103a; Fed. R. Crim. P.
	41(f)(1)(C). As a result, if an individual or business elects to maintain its emails on premises,
	the government could not execute a search warrant for those emails without the customer
	learning about it and having the ability to assert any rights or privileges it may have. "[W]hen
	law enforcement seizes property pursuant to a warrant, due process requires them to take
	reasonable steps to give notice that the property has been taken so the owner can pursue
	available remedies for its return." City of West Covina v. Perkins, 525 U.S. 234, 240 (1999);
	Lavan v. City of Los Angeles, 693 F.3d 1022, 1032 (9th Cir. 2012) ("[T]he government may not
	take property like a thief in the night; rather, it must announce its intentions and give the
	property owner a chance to argue against the taking.") (internal quotation marks and citation
	omitted).
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34. *Privacy in the Cloud*. Here, Microsoft's customers have decided to store their information and data with Microsoft in the cloud rather than on computers at their own premises. This technological fortuity, however, does not weaken the privacy interests at stake. *See Riley*, 134 S. Ct. at 2494-95 ("The fact that technology now allows an individual to carry in his hand" a cell phone that contains the "privacies of life," including thousands of photographs and records of all his communications, "does not make the information any less worthy of the protection for which the Founders fought[.]"). Nevertheless, relying on Section 2705(b), the government seeks and executes warrants for electronic communications far more frequently than it sought and executed warrants for physical documents and communications—apparently because it believes it can search and seize those documents and communications under a veil of secrecy. But providing less protection to information stored in the cloud than to information stored in a local server or papers stored in a file cabinet would ignore the Supreme

Court's admonition not to let "technology [] erode the privacy guaranteed by the Fourth Amendment" and its caution to, when confronted with new technologies, "assure[] preservation of that degree of privacy against government that existed when the Fourth Amendment was adopted." *Kyllo v. United States*, 533 U.S. 27, 34 (2001).

- 35. **Standards for Standing.** When the government serves a warrant on Microsoft seeking a customer's private information and data, the Fourth Amendment rights described above belong to the customer, whose "papers and effects" are the target of the government's legal process. But Microsoft has third-party standing to vindicate its customers' Fourth Amendment rights to notice, particularly when customers lack sufficient knowledge to challenge government action because of the government's tactic of operating behind a veil of secrecy. See Powers v. Ohio 499 U.S. 400, 410–11 (1991) (permitting third-party standing where: (1) the litigant has constitutional standing (i.e., the litigant has suffered an "injury in fact," giving him or her a "sufficiently concrete interest" in the outcome of the issue in dispute); (2) the litigant has a "close relation to the third party"; and (3) there is some hindrance to the third party's ability to protect his or her own interests) (internal quotation marks and citations omitted).
- 36. *Microsoft's Standing.* Microsoft satisfies each element of the *Powers* test.

 First, Microsoft has a core business interest in safeguarding its customers' private correspondence and documents. Section 2705(b)'s violation of Microsoft's customers' Fourth Amendment rights therefore injures Microsoft by eroding the customer trust that encourages individuals and businesses to migrate their technological infrastructure to Microsoft's cloud.

 Further, the Fourth Amendment harms caused by Section 2705(b) are themselves the subject of Microsoft's forbidden political speech, speech in which Microsoft cannot engage because of secrecy orders issued pursuant to Section 2705(b); accordingly, the Fourth Amendment violations caused by Section 2705(b) compound Microsoft's First Amendment injury. Second, courts recognize that providers such as Microsoft have a sufficiently close relationship with their customers to allow providers to assert their customers' constitutional rights under *Powers*.

1	DATED this 14th day of April, 2016.	
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19		aberengaut@cov.com, kgoodloe@cov.com
20		Bradford L. Smith David M. Howard
21		Jonathan Palmer Microsoft Corporation
22		One Microsoft Way Redmond, WA 98052
23		,
24		*pro hac vice application to be filed
25		Attorneys for Microsoft Corporation
26		

J Rybicki

From: J Rybicki

Sent: Friday, April 29, 2016 9:02 PM
To: Rybicki, James E. (DO) (FBI)

http://www.foxnews.com/on-air/special-report-bret-baier/videos#p/86927/v/4870979526001

Rybicki, James E. (DO) (FBI)

From: Rybicki, James E. (DO) (FBI)

Sent: Tuesday, May 03, 2016 8:29 AM

To: b6 -1

Subject: Test

----- Öriginal message ------From: J Rybick

b6 -1

Date: 05/24/2016 9:03 PM (GMT-05:00)

To: "Rybicki, James E. (DO) (FBI)" <James.Rybicki@ic.fbi.gov>

Subject:

https://www.washingtonpost.com/news/the-switch/wp/2016/05/24/what-is-driving-silicon-valley-to-become-radicalized/

J Rybicki					
From: Sent: To: Subject:	J Rybicki Monday, June 06, Rybicki, James E. Fwd: FBI Agent				
From: Date: Monday, Subject: FBI Age To: Jim Rybicki		edin.com> b6 -1,5 b7C -1,5			
Chief of Staff/S	Senior Counselor Rybi	cki:	b6 -1		
This is in refer	This is in reference to a SAP out of the DIA.				
Please notify Director Comey that a Special Agent from Chicago is visiting my house tomorrow at 10 am pacific. I do not want the situation to escalate so please notify Special Agent from FBI Chicago, to play nice. If they come armed, we have a problem: I will be checking. Thank you.					
V/R,					
	ot interested	b6 -5 b7C -5			

You are receiving inMail notification emails. Unsubscribe
This email was intended for Jim Rybicki (Chief of Stati). Learn why we included this.

If you need assistance or have questions, please contact Linkedin Customer Service.

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J Rybicki

From: J Rybicki

Sent: Sunday, June 12, 2016 7:35 PM
To: Rybicki, James E. (DO) (FBI)

Attachments: CkyaAsQXIAAoJ8U.jpg-large.jpg

Subject: Mission First - People Always

On the darkest day of my 25 years at the Orlando Police Department, I wanted to take a moment to tell all of you how proud I am of the work you have done today and will do over the next days and weeks.

We have trained again and again for this type of situation, it's unfortunate that we had to put those skills to use today. But because of that training and your professionalism, we saved dozens of lives this morning.

Even before the first patrol units arrived on the scene, an OPO officer working extra duty at the club engaged line gunman as he opened fire. Our First Responders and SWAT Team faced a hail of gunfire as they rescued the hostages, and we are blessed beyond words that none of them were gravely injured or killed.

We've received an enormous amount of tactical Law Enforcement support from local, state and Federal agencies. The outpouring we have received from our Central Florida community and Law Enforcement across the nation and the world, has overwhelmed me with grafitude.

I know that you have all been affected today by the tragic actions of a lone terrorist who cut short the lives of so many. Our community, our City, and our Department will be grieving in the days, weeks and months to come.

But on a day like today - and every day - I couldn't be more proud to be your Chief.

Please hug your families tonight. And be safe out there...

John W. Mina, Chief of Police Orlando Police Department

Rybicki, James E. (DO) (FBI)

Rybicki, James E. (DO) (FBI) From: Thursday, June 16, 2016 10:25 PM Sent: To: J Rybicki Subject: Fwd: FBINET to UNET File Transfer System **Attachments:** Message_from_the_Director_about_Orlando__---_UNCLASSIFIED.msg ----- Original message ----DO) (FBI)" From: b6 -1 Date: 06/16/2016 4:23 PM (GMT-05:00) To: "Rybicki, James E. (DO) (FBI)" <James.Rybicki@ic.fbi.gov> Subject: FW: FBINET to UNET File Transfer System -----Original Message-From: Sent: Thursday. June 16, 2016 4:23 PM b6 -1 (DO) (FBI) b7E -3 Subject: FBINET to UNET File Transfer System

From: HQ.DIRECTOR

Sent: Wednesday, June 15, 2016 2:16 PM

To: FBI_ALL

Subject: Message from the Director about Orlando --- UNCLASSIFIED

Classification: UNCLASSIFIED

To all:

In the wake of the terrible attack in Orlando, you have seen, and will continue to see, a fair amount of second-guessing about our work. I thought it might be useful for me to share my thinking about that.

As to this particular matter, we have taken a pretty close look at our prior contact with the Orlando killer. At this time, it sure looks to me like our folks did what they are supposed to do. But, as we always do, we will take a deep look back to see what we can learn. If there are ways to improve the way we do this important and hard work, we always want to find those. And we will be as transparent as possible about what we conclude. But I continue to be impressed by the way we do something many people think impossible — investigate in a quality way thousands of terrorism cases, trying to assess whether they are the needles in the haystack or even pieces of hay that may become a needle.

More generally, second-guessing is a natural part of the human experience, and the American experience in particular. And that's okay, even if it sometimes makes us smile at the irony of the New York Times a week ago writing about how we might be too aggressive in our use of sources and undercovers and now writing about whether we are aggressive enough and have the tools we need.

I say second-guessing is a natural part of being human because it is a natural impulse for people to channel pain and anxiety into a search for answers of all kinds. How did this terrible thing happen? That's part of who we are as people, and it can be a good thing if focused on continually finding ways to improve processes, tools, or authorities.

I say it is a uniquely American thing because I believe we have an essentially optimistic national culture, which is wonderful and why we are the greatest country in human history. Americans have long resisted fatalism, the idea that we must simply accept that bad things will happen in life and some things just can't be accomplished. Instead, we are optimists and believe bad things can be avoided and all things can be fixed. More than any other country, our instinct is to figure out what happened in a deep way so we can fix it.

Of course, the desire to fix sometimes morphs into an unproductive search for people or institutions to blame, and can reflect a certain national naiveté about whether bad things can really be avoided in all situations. And the risk of it becoming unproductive is particularly high in polarized political environments. But I choose to see our second-guessing culture as a healthy part of our remarkable national identity.

So please don't let second-guessing throw you. Instead, see it as consistent with the FBI's own attitude of constantly seeking to be better. For my part, I will continue to talk to the American people about our work, acknowledging those places where we may have fallen short, but also responding when I think the nature and quality of our work is being distorted. Thank you for the remarkable work you do to protect the American people.

Jim Comey

Classification: UNCLASSIFIED

J Rybicki

From: J Rybicki

Sent: Friday, June 17, 2016 5:38 PM
To: Rybicki, James E. (DO) (FBI)

Attachments: IMG_4268.jpg







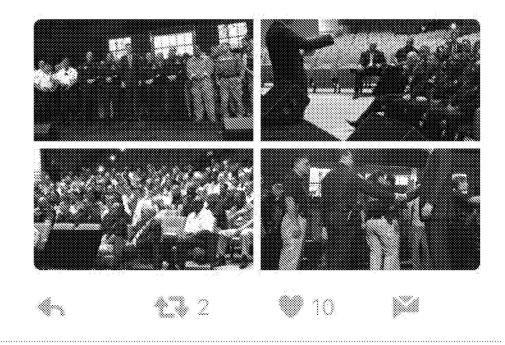
Orlando Police @OrlandoPolice 12m

He is SUPER tall!

b6 -2



Orlando Police @Orlando Police 14m More photos of the Director's visit. After he spoke he shook the hand of nearly every one of the 300+ in the room.





Orlando Police @OrlandoPolice

15m











J Rybicki

J Rybicki From:

Saturday, June 18, 2016 5:19 PM Rybicki, James E. (DO) (FBI) Sent: To:

In terror attacks, the Fumbling Bureau of Investigation?











FBI: Shooter had been investigated 02/42

Story highlights

Peter Bergen: Critics say FBI dropped ball after investigating Orlando shooter Omar Mateen in 2013 and 2014

terror cases

Bergen: Key solution is preventing those we suspect of terrorism from getting easy access to lethal weapons

Peter Bargeri is CNN's national security analyst, a vice president at New America and a professor of practice at Arizona State University. He to the author of the new trook "United States of Jihad, Investigating America's Homegrown Tenonsis *

(CNN) The news that the FBI had investigated the Orlando He says FBI furnished similarly in several other — terrorist, Ornar Mateen, in 2013 and 2014 after he made inflammatory comments to coworkers and because he had possible connection to fellow Floridian Moner Abu -Salha -- an ai Qaeda recruit who later became the first known American suicide bomber in Syria. -- has generated considerable criticism of the bureau. Critics charge that it should have done more to stop Mateen.

The Mateen case is, unfortunately, far from an exception, in a number of the lethal terrorist attacks in the United States since 9/11, the FBI has investigated the perpetrator before the attack, but closed the case because there wasn't sufficient evidence (what the law enforcement community calls "derogatory information") found to continue the

So is the FBI failing at its most important job? Not necessarily, as the FBI quite properly has to work within guidelines set by the U.S. afterney general about how long an inquiry can remain open in the absence of the kind of derogatory information that would lead to a full-blown investigation.

Ron Hopper of the FBI enswers questions from mambers of the madia on June 12. Listening are Orlando Police Chief John Mina, left, and Grange County Mayor Taresa Jacobs.

Hide Caption

sting operations to ensnare would -be terrorists, for instance.

The solution is not to give the FBI greater feeway in terrorism investigations, but it is to look for other common threads instain together domestic terrorists who were previously known to the FBI — namely, the fact that three of the most notorious among them were able to purchase legally and without restraint the kinds of lethal weepons that could maximize the violent impact of their murdercus intentions.

Take Carlos Biedsoe, a convert to relam from Memphis, Tennessee, who killed a U.S soldier at a military recruiting center in Little Rock, Arkansas, in 2009. Biedsoe first attracted the FBI's attention after Yemeni authorities arrested him in November 2008. (When he was detained, Biodsoe had in his possession o take Somali identification card and manuals about how to make frombs and gun stiencers. His cell prince contained contacts for militarits who were wanted in Saudi Availa.

🛮 Trunq & 15) s hazars as malani alan

Donate Trump's fatuous terrorism plan (Opinion)

Some weeks into Bledsoe's imprisonment, an FBI special agent traveled to Yemen to interrogate him. The FBI had opened an "assessment" of Bledsoe, which, while not a full-scale investigation, showed that he was on its radar. Though Bledsoe insisted that he had gone to Yemen only to teach English and learn Avable, the FBI agent informed him that he would be deported to the United States.

Following the FBI's instructions to report to them when he was back in Tennessee, Bledsoe met again with an FBI official, who tried to recruit him as an informant. When Bledsoe refused, the FBI stopped tracking him.

Photos: Mass shooters in U.S. history

Jared Loughner killed six people and wounded former U.S. Rep. Gabrielle Offords in Arizona.

e of ? Hide Caption

Office add 191 SM period (SC Cho: SM navy and skill now learns a hear' substitute of the control of the control

This decision is hard to reconcile with the information the FBI had at the time. Bledsoe had been arrested in Yemen with inctinninging materials. Perhaps this information was not properly communicated to the FBI at the time by the Yemeni intelligence service, but even so, Bledsoe's arrest should have been enough to raise concern about what he might do

next to keep him in their sights.

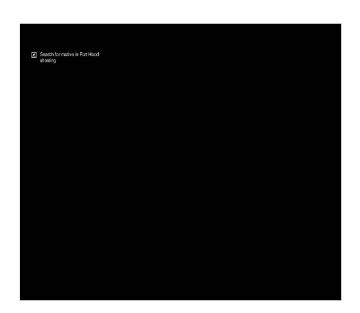
Michael Leller, the then-director of the U.S. National Counterferorism Center, believes that the FBI erred by not sharing their information about Biedsoe with the rest of the intelligence community. There should have been broad dissemination on this," he later said.

Even Bledsoe expected that the Bureau would follow him after his interviews. To test whether he was under FBI surveillance, Bledsoe bought a semiautomatic rifle over-the-counter at a Wat-Mart. He figured if anyone was watching, they would have stopped him.

A few months after Bledsoe opened fire at the recruiting center in Little Rook – killing Pvt. William Long and wounding Pvt. Quinton Ezeagwuta – U.S. Army Maj. Nildat Hasan killed 12 soldiers and a civilian at Fort Hood, Texas. Nildal, too, had been a subject of interest at the FBI.

Hasan sent Anwar Awiaki, an American cleric in Yemen who would take on an important teadership position in all Qaedo, a series of emails beginning in December 2008, asking his advice shour "Musikins in the US military," in particular, he was interested in the question of whether an American Musikin soldier who turned his gun on fellow U.S. soldiers "in the name of Islam" would be fighting a "true jihad." And if he died in such an assault, would be be considered a shaheed, or a marryr for Islam"?

Search for motive in Fort Flood shooting



Search for motive in Fort Hood shooting 02:44

in one lengthy e-mail on May 31, 2009, Hasan suggested that suicide attacks might be "permissible" particularly in cases where the aim was "to kill enemy soldiers," even in instances where there was collateral damage to innocent bystanders.

Taken together, the 18 emails Hasan exchanged with Awlaki reveal a chillingly persistent line of inquiry: Hasan was seeking an Islamic justification for the killing of fellow American soldiers in a suicide mission that might also kill civilians.

The real bonu forest in America is homegrown

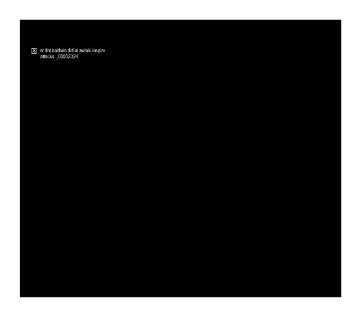
The real terror threat in America is

Astonishingly, the FBI know about the entire correspondence. After Hasan sent his first message to Awlaki in 2008, a member of the Joint Terrorism Task Force in the San Diago office of the FBI reviewed it and wrote to colleagues: "Here's another e-mail sent to Aulaqi by a guy who appears to be interested in the military. The header information suggests that his name is 'Nidal Hasan,' but that might not be true. The IP address resolves to Reston, VA.

Can we check to see if this guy is a military member?" After some digging around, the agent in San Diego found a Nidal Hasan assigned to the Waiter Reed military hospital in Washington, D.C. Concerned by this discovery, in FBI parlance he "set a lead" to the FBI's Washington Field Office

(WFO), which has handled many prominent terrorism cases. The WFO did its own investigation and responded, "Given the context of his military/medical research and the content of his, to date, unanswered messages, WEO does not currently assess Hasan to be involved in terrorist activities."

Did al-Awlaki inspire terror actacks?



Did al-Awlaid inspire terror attacks? 03:16

Agents in the FBI San Diego filed office found the response puzzling. The Washington office final examined only Hasan's personnel files, which were completely innocuous. A far more useful approach would have been to falk to some of Hasan's superiors, or even to Hasan himself, which they did not do.

The San Diego agents, confused, emailed back, asking if perhaps Hasan was a "friend," or inhormant, for the WPO. They wrote: "The response looks a little slim, i.e. limited probing into this individual's background, no contact w/ command and no interview of Hasan. We were wondering if we were missing something, i.e. we need to read between the Ries (Hasan is a friend of WPO)?"

The WFO wrote back that Hasan was not "a friend of WFO." If you have additional information regarding HASAN's links to terrorism or request any specific action, please share and we will re-assess."

What sind of consequent in this would Milary Climon

Hillary Clinton, hawk or dova?

One of the San Diego agents called the FBI office in Washington to explore the issue further and was told. This is not San Diego, it's DC and we don't go out and interview every Muslim guy who visits extremist websites. Besides, this guy has tegitimate work-related reasons to be going to these sites and engaging these extremists in dialogue."

After this, the FBI dropped all investigation of Hasan, it was then and remains now an astenishing choice by the FBI Washington Field Office to dismiss Hasan as a serious threat. After all, a millitant Islamist with constant access to U.S. militanty bases was in a position to do considerable damage. And there was no shortage of red flags in the e-mails themselves.

Hasan subsequently legally purchased the two guns that he used in his November 5, 2009, assault at Fort Hood that left 13 people dead and 32 others injured.

And of course, we all know by now about the bloody effects of Omar Mateen's legally-purchased AR -15

Orner Mateers, Carlos Bledsoe and Nidal Hasan — three of the most prominent domestic terrorists since B/11 — were FBI subjects of interest. Yet all legally purchased senti-automotic weapons as a prelatic to their murderous rampages, in the future, such purchases of weapons must, at a minimum, be flagged to law enforcement or, even better, simply barred altogether.

So as we rightly ask questions about what the FBI knew or should have done to prevent the attack in Orlando, the FBI and other law enforcement entities must also put procedures in place going floward to prevent the subjects of terrorism inquiries from having easy access to the tools to create mass violence.

From: J Rybicki

 Sent:
 Sunday, June 19, 2016 10:45 AM

 To:
 Rybicki, James E. (DO) (FBI)

Lynch: Authorities to release limited transcripts of calls with Orlando shooter

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By Tom LoBianco, CNN

Updated 10:04 AM ET, Sun June 19, 2016



Washington (CNN) Attorney General Loretta Lynch said Sunday that law enforcement will release limited transcripts Monday from the three phone calls that Orlando shooter Ornar Mateen had with police.

"They will talk about what he told law enforcement on the ground as the events were unfolding," Lynch told CNN's Dana Bash on "State of the Union."

The Justice Department says the FBI and Orlando authorities, in coordination with the U.S. Attorney's office, are expected on Monday to release a limited transcript of conversations Mateen had with authorities during the shooting as well as a timeline.

"He talked about his pledges of allegiance to a terrorist group. He talked about his motivations for why he was claiming at that time he was committing this horrific act. He talked about American policy in some ways," Lynch said. In one of the call he pledged allegiance to ISIS, authorities have said.

"The reason why we're going to limit these transcripts is to avoid re-victimizing those people that went through this horror. But it will contain the substance of his conversations," she said.

FBI Director James Comey said Monday there were three calls with Mateen.

"During calls he said he was doing this for leader of (ISIS) who he named and pledged loyalty to," Comey had said. "But he also claimed to piedge solidarity with the perpetrators of the Boston Marathon bombing and solidarity with a Florida man who died as a suicide bomber in Syria for al-Nusra Front, a group in conflict with the so-called Islamic State. The bombers at the Boston Marathon and the suicide bomber from Florida were not inspired by (ISIS) which adds a little bit to the confusion about his motives."

Lynch also said that political correctness is not getting in the way of terror investigations and that maintaining contacts within the Muslim community is very important because "if they're from that community and they're being radicalized, their friends and family members will see it first."

"We investigate these cases aggressively, no stone is left unturned," she told Bash. "There is no backing away from an issue, there is no backing away from an interview because of anyone's background. Because for us, the source of information is very, very important."

Lynch is expected to travel to Orlando on Tuesday where she will meet with victims and their families, first responders, federal prosecutors and other community members. She will also receive a briefing from law enforcement regarding the investigation of the shooting.

J Rybicki

From: J Rybicki

 Sent:
 Sunday, June 19, 2016 3:44 PM

 To:
 Rybicki, James E. (DO) (FBI)

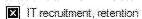
DoD plans to bring CAC cards to an end

X

By Jason Miller | @jmillerWFED June 15, 2016 4:45 am

The Common Access Card has driven the Defense Department's cybersecurity posture for much of the past 15 years. But the end of the CAC card may be near.

DoD Chief Information Officer Terry Halvorsen said June 14 that he plans to phase out the secure identity card over the next two years.



Terry Halvorsen is the CIO of Department of Defense.

"We will not eliminate public-key infrastructure. We will not eliminate high security. But frankly, CAC cards are not agile enough to do what we want," Halvorsen said at the FedForum 2016 sponsored by Brocade in Washington. "We may still use them to get into a building or something, but we will not use them on our information systems. We will use true multi-factor that actually does a couple of things for me — gets me more agile because there is an overhead for CAC cards, not just cost overhead, but a time overhead and in my business it's a location overhead. It's really hard to issue a CAC card when people are dropping mortar shells on you and you need to get into your systems. It just doesn't work well."

Halvorsen said he'd like to move to a behavior-based approach for network authentication. "If I structure it right, I could build the behavior pattern of that person's identity. We can like it or not, but one of the best ways for me to check security is to see if their behavior pattern has deviated. That might not be you anymore," he said. "So we are looking at maybe, not giving an

answer, but some of the things we are thinking about is some combination of behavioral, probably biometric and maybe some personal data information that is set for individuals. There are other thoughts like iris scans. All of those are doable today."

DoD began <u>issuing CAC cards</u> in 2001, and over the last 15 years the smart identity cards have become the de facto, governmentwide standard for network and system security access control. The Defense Manpower Data Center says it issued 2.8 million CAC cards last year to uniformed service members, civilian employees and contractors.

Over the last 15 years, DoD has issued more than 20 million CAC cards.

DoD has <u>struggled</u> over the last decade to find the best way to integrate the smart identity cards with mobile devices. But this was the first time a senior official has publicly said it's time to move off the CAC cards for network access.

Since DoD mandated logical access control in 2006, the Pentagon's networks have been better protected against typical attacks by hackers, including phishing and other attempts to steal credentials.

ADVERTISEMENT Halvorsen said another reason for the change is the work DoD is doing with its allies, including NATO.

"We are very close to reach upon an agreed upon identity standard and methodology," he said. "That is an unbelievably powerful win for us in terms of combat and information multiplier. Today I have NATO officers serving in different positions, but one of my biggest problems is getting them on and off the network. It just doesn't work well. If we had common identity standards with management principles, then I could get to a more data access driven system than today I have an identity access that doesn't match up with what data they should be able to see and shouldn't be able to see. We have to get to those environments. We will do that."

Related to moving off of the CAC card, Halvorsen said DoD is doubling down on its data center consolidation effort.

He said he will name a panel to focus on how to close the 50 most expensive data centers that the military runs.

"We are behind on data center closures inside DoD. I'm not seeing fast enough the money I need from that," Halvorsen said. "That will be an enterprise decision, not an individual element decision. That's a big change for DoD. We ae working on it. It will not happen without some bumps."

The panel will include DoD and industry experts.

A March <u>report</u> from the DoD inspector general found the military wasn't consolidating data centers as required under the Federal Data Center Consolidation Initiative.

"DoD did not meet the FDCCI requirement to consolidate 40 percent of its data centers by year end FY 2015. Of the 3,115 data centers reported in DCIM at year end fiscal 2015, only 568 (18 percent) were reported as closed. This occurred because the DoD CIO did not revise its strategy to reduce data centers by 40 percent after OMB revised the data center definition to include smaller facilities," auditors said. "In addition, the DoD CIO did not enforce compliance with the DoD requirement of one installation processing node (IPN) per installation. As a result, DoD will not reduce its energy and real estate footprint or achieve the cost savings as intended by the FDCCI. In addition, even with the planned closure of 796 additional data centers from fiscal 2016 through fiscal 2018, only 1,364 (44 percent) will be closed and DoD will not meet its internal goal to reduce the number of data centers by 60 percent by year end fiscal 2018." Halvorsen told the IG that he would revise DoD's data center consolidation strategy by the end

of 2016 to account for the increase in the number of data centers.

"The DoD CIO also stated that DoD was seeking relief from OMB to exclude special purpose processing nodes (SPPNs) from its data center consolidation metrics because SPPNs could not be severed from the facilities or equipment they supported," auditors said. "He stated however, that he planned to work with the services to reconcile instances of multiple IPNs on individual bases."

From: J Rybicki

Sent: Sunday, June 19, 2016 3:49 PM
To: Rybicki, James E. (DO) (FBI)

FBI chief Comey stakes out unusually public profile on biggest issues

🖾 Hessa Hohados, USA TODAY

3:06 p.m. EDT June 19, 2016

WASHINGTON — When President Obama named James Comey to succeed FBI Director Robert Mueller, the popular nominee acknowledged the long shadow cast by the man who in the previous 12

(Photo: Win McNamee, Getty

lmages)

years had led the bureau longer than anyone except J. Edgar Hoover.

"I must be out of my mind to be following Bob Mueller," Comey said in the 2013 White House Rose Garden ceremony. "I don't know if I can fill those shoes, but I know that, however I do, I will be standing truly on the shoulders of a giant."

Indeed, Mueller's tenure was widely credited with the post-9/11 transformation of the FBI from a largely reactive law enforcement institution to an intelligence-driven agency bent on preventing new terror strikes. And he did it by shunning the spotlight at virtually every opportunity.

By contrast, Comey, 55, has staked out a public profile that couldn't be more different than his predecessor and the traditional confines of the office itself.

- He has bluntly acknowledged law enforcement's fraught relationship with racial and ethnic communities in addresses at Georgetown University and Birmingham, Ala., and has suggested that less-aggressive policing may be contributing to troubling spikes in violent crime in some parts of the country a position that has put him at odds with his boss, Attorney General Loretta Lynch, and even the White House.
- He has drawn the wrath of the tech industry and privacy advocates earlier this year as the face of the government's legal battle with Apple Inc. to gain access to the iPhone of San Bernardino terrorist Syed Farook. The high-stakes dispute represented what Comey described as the "hardest problem I've encountered in my entire government career."
- And he has publicly faced new questions about the bureau's capacity to confront an increasingly daunting challenge: thwarting violent extremists from within who are drawing inspiration from a constellation of radical ideologies to commit mass murder. At one point during a briefing last week on the Orlando massacre, carried out by a gunman who was twice before on the FBI's radar, Comey acknowledged the vexing nature of a mounting burden, ticking off a list of recent bloody assaults and attempted attacks that have scarred Garland, Texas, Charleston, S.C., Chattanooga, Tenn., San Bernardino, Calif., and now, Orlando.

"We are looking for needles in a nation-wide haystack," Comey said, "and we are also called upon to figure out which pieces of hay may some day become needles."



Not in more than 20 years, say former national security officials, criminal justice analysts and bureau critics, has the bully pulpit of the FBI director been used to address such an array of hot-button issues and with such frequency.

"I've known Jim for a quarter century," said Chuck Rosenberg, director of the Drug Enforcement Administration who also served as Comey's first chief of staff at the FBI. "When he feels like he has something to say, he does so only after careful judgment. And while it may seem like an unusual role for an FBI director, it's not a reflex action. It has nothing to do with self promotion or aggrandizement."

FBI Director James Comey speaks during the second day

FBI Director James Comey speaks during the second day of a conference about race and law enforcement on May 25, 2016, at the 16th Street Baptist Church in Birmingham, Ala. (Photo: Seen Logan, The Monigomery (Ala.) (Advertiser)

Michael Chertoff, a former Homeland Security secretary during the George W. Bush administration, said the stark difference in "personal style" that Comey has brought to the office plays to the strengths of someone "well positioned ... to address issues in the forefront of public discussion."

"Bob Mueller was very quiet; he didn't deal with things publicly," Chertoff said, adding that the post-9/11 environment required Mueller to focus his efforts inward to deal with the new terror threat. "I think it's really appropriate (for Comey to speak out). It reflects his independence."



USA TODAY

FBI director reflects on Apple dispute



USA TODAY

FBI director: No 'external deadline' for finishing Clinton email probe

Defending the Bureau

A year ago, when the tragic details came to light about a law enforcement breakdown that allowed Dylann Roof to purchase the gun he allegedly used to murder nine people at the iconic Mother Emanuel AME Church in Charleston, S.C., it was Comey who delivered the "heartbreaking" news.

"We are all sick that this has happened," a grim-faced director said of the background check system's failure to seize on the contents of an arrest record that would have barred Roof from obtaining the .45-caliber handgun just two months before the shooting. "We wish we could turn back time, because from this vantage

point everything seems obvious. But we can't."

And in the immediate aftermath of the Orlando massacre, it was Comey, who provided the unsettling history of the bureau's contacts with gunman Omar Mateen, beginning three years prior to the massacre. Though the director pledged a review of those contacts, which included a 10-month investigation of Mateen's possible terror links, he defended his agency's decision to close that inquiry in 2014 without action and to conclude months later that the 29-year-old security guard had no substantive association with American-born suicide bomber Moner Muhammad Abu Salha. The Vero Beach, Fla., man died in a 2014 attack in Syria.

"We will work all day and all night to understand (Mateen's) path to that terrible night," Comey said. "We're also going to look hard at our own work to see if there is something we should have done differently. So far, the honest answer is, I don't think so."

Rep. Michael McCaul, R-Texas, chairman of the House Horneland Security Committee, is among those who have called for a closer examination of the FBI's dealings with Mateen and whether the bureau has the resources to keep pace with "an increasing threat." Both issues are expected to be the focus of a hearing next month where Comey and Homeland Security Secretary Jeh Johnson are expected to testify.

"I think they are overwhelmed," McCaul said, referring to the FBI's load of about 1,000 active investigations involving suspected violent extremists, most inspired by ISIL. "It's quite a challenge for federal law enforcement."

Despite those serious concerns, McCaul has no issue with the bureau's management. "He's really been a leader," the chairman said, referring to Comey's public statements on race, encryption and the threat domestic radicalization.

"I'm telling you, he has broad support in Congress."

Frank assessments not universally embraced

For the 6-foot-8-inch, self-described "awkward white guy," a public address on race was not at once a comfortable fit.

During a recent Birmingham speech — at the 16th Street Baptist Church, sacred ground in the American civil rights movement — Comey acknowledged unusual anxiety as he prepared in February to address the fractured relationship between law enforcement and minority communities during an appearance at Georgetown University. "I had struggled for months to figure out whether or not I had something useful to say, and I worried a whole lot how I would be received," Comey told the gathering of civil rights advocates and law enforcement officials assembled at the Birmingham church.

Even Justice officials questioned whether the FBI director was the appropriate figure to raise such issues when Comey's office provided a courtesy copy of the Georgetown address before the February appearance, two officials familiar with the matter said. The two officials who are not authorized to comment publicly said the director went forward with the speech, despite those reservations.



USA TODAY

FBI director confronts race, law enforcement

Comey said the desire to speak publicly, following the tumult in Ferguson, Staten Island and Baltimore, was ultimately spurred by the outpouring of "pain" he encountered at the January 2015 funeral of New York Police

Department officer Wenjian Liu. The officer was one of two assassinated by a

gunman apparently driven to avenge the deaths of black suspects Michael Brown and Eric Garner by police in Ferguson and Staten Island.

"As I talked to people that day," Comey said in Birmingham, referring to the Liu funeral, "I thought, you know, maybe I can contribute something. Maybe if I say things I believe to be true about people, things I believe to be true about law enforcement, maybe I could foster a more open-minded discussion about where we are, who we are and what we need to be."

New York Police Department officers carry the casket

New York Police Department officers carry the casket of officer Wenjian Liu during a funeral in New York on Jan. 4, 2015. (Photo: Jewei Samad, AFP/Getty Images)

> At both Georgetown and in Birmingham, Comey acknowledged law enforcement's legacy of distrust in racial and ethnic communities. "Police officers often work in environments where a disproportionate percentage of street crime is committed by young men of color," Comey said in Birmingham. "And on an overnight shift, sometimes all an officer sees is trouble. Something can happen to people of goodwill in that environment."

Comey's remarks prompted powerful, yet disparate responses within the law enforcement community - from the street ranks to the executive suites.

Birmingham Police Chief A.C. Roper, who recalled his own department's checkered history, said the the city's iconic church — where four African-American girls were murdered in a Ku Klux Klan bombing more than 50 years ago -- represented "the perfect backdrop" for the director's remarks last month. "It's an unfortunate reality, but the Birmingham Police Department, which I now have the honor of leading, was the arms and legs of a brutal racist municipal government," Roper said. "Although as an agency we continue to change, the complex dynamics of race and law enforcement is playing out across the nation."

Attorney General Loretta Lynch walks with Sixteenth

Attorney General Loretts Lynch walks with Sixteenth Street Baptist Church Rev. Arthur Price Jr., center, and Birmingham Police Chief A. C. Roper, after touring the historic civil rights church on June 24, 2015. (Photo: Hal Yeager, AP)

> But Jim Pasco, executive director of the nation's largest police union, the Fraternal Order of Police, said Comey's words have amounted to an affront to most officers. "The first thing a police officer learns is that you cannot generalize," Pasco said. "Director Comey has demonstrated that he is a very glib generalizer. If he's trying to be provocative, he is succeeding; if he's trying to be instructive I'm not so sure. The shame of it is, he's personally very charming. He's the kind of duy you want to like, but he's making it very hard to do so."

> Comey also has ruffled some with a repeated suggestion that a pull back by police, stung by streaming videos of violent public encounters, is contributing to surges in violent crime in a number of cities across the country, "I was worried about it last fall," Comey told reporters last month, echoing a similar assessment he offered during appearances the previous year in Chicago. "And I am, in many ways, more worried

A day later, White House press secretary Josh Earnest said the administration response to such crime trends would be "based on evidence, not anecdotes."

Yet New York Police Commissioner William Bratton said the FBI director should be free to speak his mind, regardless of the uncomfortable political implications. "He's a breath of fresh air," Bratton said. "The system is working the way it was intended."

That a New York police commissioner is even publicly expressing such regard for an FBI director represents a fairly recent breakthrough of its own. For years, the relationship between the two agencies was fractured by turf wars and mutual suspicion.

Clash sparks national debate

Perhaps no other public battle has thrust Comey into the spotlight more than the government's legal pursuit of Apple.

In attempting to force the tech giant to assist federal investigators in unlocking an iPhone used by Farook, the San Bernardino terrorist, the FBI director set off an emotional national debate. In a series of court filings over a period of weeks, the government and Apple engaged in a war of words while Comey took his argument to the court of public opinion.



YAGOT AGU

FBI not trying to send message or set precedent with Apple case, Comey says

"If we're going to get to a world where there are spaces in American life that are immune from judicial search warrants, then that is a very different world from the one in which we live," Comey told a House panel in February. "Corporations shouldn't drive us there; the FBI shouldn't make that decision. The American people should decide how we want to be governed."



FBI Director James Comey testifies before a House Select

F8I Director James Comey testifies before a House Select intelligence Committee hearing on Feb. 25, 2016. (Photo: Jim Lo Scalzo, EPA)

> The debate was put on hold when an unidentified FBI contractor successfully hacked into the seized device, negating the government's need for Apple's help. But likely not for long.

> Some civil liberties advocates assert that the FBI director's very public role in the Apple dispute - coming less than halfway through Comey's 10-year appointment represents a long-term threat that stretches far beyond the San Bernardino terror case. "Director Comey has really taken a leadership role in trying to push Congress to take on encryption," said Neema Singh Guliani, a legislative counsel with the ACLU. "San Bernardino was really an attempt at setting precedent (to gain access to private communications). And the reaction from the general public was clear: this was not good for the country."



USA TODAY

FBI paid at least \$1.3M to hack terrorist iPhone

Comey, who has committed to serving his full 10-year term, has said setting precedent was never the goal.

Nobody should be really surprised by the director's outspoken style, if only for his extraordinary appearance nine years ago before a Senate panel in which Comey detailed a 2004 showdown with top George W. Bush administration officials in the hospital room of the seriously ill then-Attorney General John Ashcroft.



James Comey, right, talks with Sen. Arlen Specter,

James Comey, right, talks with Sen. Arlen Specter, R-Pa., ranking Republican on the Senate Judiciary Committee in this 2007 photo. (Photo: Susan Welsh, AP)

At Ashcroft's beside at George Washington Hospital, then-White House counsel Alberto Gonzales and chief of staff Andrew Card sought to persuade Ashcroft to reauthorize the controversial warrantless eavesdropping program. Comey, then deputy attorney general, learned of the meeting and rushed to Ashcroft's hospital room, along with Mueller, the FBI director. When both Comey and Mueller threatened to resign, the White House relented.

The New York Times first reported the incident in 2006, but Corney's vivid recitation offered an instant classic of Washington political theater that resonated nearly a decade later as an example of his independence when he was nominated to take over the FBI.

The quality has not gone unnoticed inside the bureau and among the loyal FBI alumni whom the director has actively courted since his confirmation.

Reynaldo Tariche, president of the FBI Agents Association, said Comey's "straight talking" way has resonated with street agents. Although the association initially urged the nomination of former Rep. Mike Rogers, R-Mich, a former agent, to succeed Mueller, Tariche said Comey has so far proved to be "powerful spokesman for the bureau."

"He has an ability to talk about the tough subjects that not only affect that FBI, but law enforcement in general," said Nancy Savage, executive director of the Society of Former Special Agents of the FBI. "While he's not out there seeking public approval, he is well-liked. He's very candid with people. He wants them committed to their jobs, but he also wants them to go home to their families at the end of the day."

Current and former colleagues say Comey, the father of five, also attempts to find the same life balance, usually beginning the workday at 7 a.m., and leaving the office by 6.30 p.m. And there are occasions when meetings are missed because of family obligations, as simple as ensuring that a daughter catches a ride to a school function.

During an April talk to Catholic University law students, he offered an unusually personal window into a management philosophy not often espoused in a city fueled by unvarnished ambition. "I expect you will sleep," Comey said, recounting recent advice to FBI agents, "And I want you to love somebody."

From: J Rybicki

Sent: Monday, June 20, 2016 7:44 PM
To: Rybicki, James E. (DO) (FBI)

http://abcnews.go.com/ABCNews/fbi-director-warns-bureau-brace-guessing-orlando-massacre/story?id=40001056&cid=abcnp_tco

From: J Rybicki

Sent: Friday, July 08, 2016 7:40 PM

To: Rybicki, James E. (DO) (FBI)

https://www.dhs.gov/news/2016/07/08/remarks-secretary-jeh-c-johnson-one-police-plaza

From: J Rybicki

Sent: Tuesday, July 12, 2016 6:14 PM
To: Rybicki, James E. (DO) (FBI)

http://nafusa.org/2016/07/david-margolis-dies/?
utm_source=feedburner&utm_medium=twitter&utm_campaign=Feed%3A+NAFUSA+%
28National+Association+of+Former+United+States+Attorneys%29

From: J Rybicki

Sent: Saturday, July 16, 2016 1:35 PM

To: Rybicki, James E. (DO) (FBI)

http://www.washingtonpost.com/.../2011/09/21/gIQAve6WrK_story...

From: J Rybicki

Sent: Sunday, July 17, 2016 9:18 PM
To: Rybicki, James E. (DO) (FBI)

 $\frac{http://www.orlandosentinel.com/news/pulse-orlando-nightclub-shooting/os-miguel-leiva-pulse-survivor-20160716-story.html$

From: J Rybicki

Sent: Tuesday, July 26, 2016 8:10 PM

To: Rybicki, James E. (DO) (FBI)

Asked about today's message from the director, the FBI emphasized that Comey spoke about more than the Clinton case.

"To mark the 108th birthday of the FBI, the Director sent a message to the workforce that highlighted some of the significant and challenging work the FBI has handled recently. He cited the Clinton case, along with San Bernardino, Orlando, Dallas and Baton Rouge, as reflective of the important work we do, and the professionalism with which we do it," the FBI said in a statement to ABC News.

From: J Rybicki

Sent: Saturday, July 30, 2016 10:47 PM

To: Rybicki, James E. (DO) (FBI)

https://m.youtube.com/watch?v=6DC56N7TTcQ

From: J Rybicki

Sent: Wednesday, August 10, 2016 7:07 PM

To: Rybicki, James E. (DO) (FBI)

Breaking: RCMP says it received "credible information" of potential terror threat today but has ID'd suspect and there's no danger to public

From: J Rybicki

Sent: Wednesday, August 17, 2016 8:09 PM

To: Rybicki, James E. (DO) (FBI)

 $\frac{\text{http://www.usatoday.com/story/news/politics/elections/2016/08/17/house-panel-probe-fbi-whether-clinton-perjured-herself-congress/88915554/}{}$

Republican committee members plan to bring up the perjury issue at a House Judiciary Committee hearing in September that will focus on oversight of the FBI, according to a Republican committee aide who was not authorized to speak on the record. The exact date and witness list for the hearing have not been set, but FBI Director James Comey will likely testify, the aide said.

J Rybicki				
From:	J Rybicki			
Sent:	Friday, August 19, 2016 9:23 AM			
То:	Rybicki, James E. (DO) (FBI)			
Hi	b6 -1			
I have three folks coming in to see the "mini" education center on Monday at 10am. Could you please pass their names to security:				
	b6 -1			

Thank you!

E. (DO) (FBI)	
Rybicki, James E. (DO) (FBI)	
Wednesday, August 24, 2016 6:07 PM	
J Rybicki	
b6 -1	

From: J Rybicki

Sent: Sunday, September 11, 2016 9:58 AM

To: Rybicki, James E. (DO) (FBI)

http://www.politico.com/magazine/story/2016/09/james-comey-fbi-accountability-214234

Rybicki, James E. (DO) (FBI)

Rybicki, James E. (DO) (FBI) From: Friday, September 30, 2016 10:03 AM Sent: To: J Rybicki Subject: Fwd: IACP Speech **Attachments:** IACP 2016 v3 (leaders) (1) + Jim B..docx ----- Original message -----From: "Baker, James A. (OGC) (FBI)" <James.Baker@ic.fbi.gov> Date: 09/30/2016 9:04 AM (GMT-05:00) To: "Rybicki, James E. (DO) (FBI)" <James.Rybicki@ic.fbi.gov>, "Mccabe, Andrew G. (DO) (FBI)" <Andrew.McCabe@ic.fbi.gov>, "Bowdich, David L. (DO) (FBI)" "Kortan, Michael P. (DO) (FBI)" < Michael. Kortan@ic.fbi.gov>, "Herring, Jason V. (CD) (FBI)" "Brekke, Bradley (DO) (FBI)" < Bradley. Brekke@ic.fbi.gov> b6 -1 Cc: "Sleeper, Kerry L. (DO) (FBI)" (DO) (FBI)" Subject: RE: IACP Speech Jim: A few comments/questions in the attached. Thanks. Jim From: Rybicki, James E. (DO) (FBI) Sent: Thursday, September 29, 2016 2:25 PM To: Mccabe, Andrew G. (DO) (FBI) < Andrew.McCabe@ic.fbi.gov>; Bowdich, David L. (DO) (FBI) Baker, James A. (OGC) (FBI) < James. Baker@ic.fbi.gov>; Kortan, Michael P. (DO) (FBI) < Michael. Kortan@ic.fbi.gov>; Herring, Jason V. (CD) (FBI Brekke, Bradley (DO) (FBI) < Bradley. Brekke@ic.fbi.gov> b6 -1 Cc: Sleeper, Kerry L. (DO) (FBI) DO) (FBI) Subject: IACP Speech

The Director's draft of his IACP speech is attached. Please pass me back any thoughts/suggestions by tomorrow afternoon if possible so he can continue to refine it over the weekend.

Thanks!

James.Rybicki@ic.fbi.gov

James.Rybicki@ic.fbi.gov From: Sent: Friday, September 30, 2016 10:05 AM To: J Rybicki Fwd: IACP Speech Subject: ----- Original message -----From: "Baker, James A. (OGC) (FBI)" <James.Baker@ic.fbi.gov> Date: 09/30/2016 9:04 AM (GMT-05:00) To: "Rybicki, James E. (DO) (FBI)" <James.Rybicki@ic.fbi.gov>, "Mccabe, Andrew G. (DO) (FBI)" <Andrew.McCabe@ic.fbi.gov>, "Bowdich, David L. (DO) (FBI)" "Kortan, Michael P. (DO) (FBI)" < Michael.Kortan@ic.fbi.gov>, "Herring, Jason V. (CD) (FBI)" b6 -1 Brekke, Bradley (DO) (FBI)" <Bradley.Brekke@ic.fbi.gov> (DO) (FBI)" Cc: "Sleeper, Kerry L. (DO) (FBI)" Subject: RE: IACP Speech

Rybicki, James E. (DO) (FBI)

From:	Rybicki, James E. (De	O) (FBI)	
Sent:	Thursday, October 1	3, 2016 11:04 PM	
То:	J Rybicki		
Subject:	Fwd: Comey transcri	pt Full	
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Original	massaga		
	message Michael P. (DO) (FBI)" <mio< td=""><td>chael.Kortan@ic.fbi.gov></td><td></td></mio<>	chael.Kortan@ic.fbi.gov>	
Date: 10/13/20	16 2:25 PM (GMT-08:00)		
9	mes E. (DO) (FBI)" <james.< td=""><td>Rybicki@ic.fbi.gov></td><td></td></james.<>	Rybicki@ic.fbi.gov>	
subject: Fwa: C	omey transcript Full		
Original	message		
From:	(DO) (FBI)"		b6 -1
	1:12 PM (GMT-08:00) Joshua S. (DO) (FBI)" < Josh	nua.Campbell@ic.fbi.gov>, "K	ortan, Michael P. (DO) (FBI)"
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Order # TC089278	0163		

How did we do?

If you rate this transcript 3 or below, this agent will not work on your future orders

Speaker 1:

[00:00:30] ... a very exciting time for the Bureau. I really do mean it. I think we're extraordinarily well led. Thank you for being that. What I want to do this morning is share with you some thoughts about the things I'm focused on. In particular, I want to tell you how I'm talking to you folks about our mission, our vision and some of the challenges that we face in the event it's useful to you and also in the event you have questions and want to give me feedback. Then, I want to talk about a couple of specialty topics, in particular, I do want to hit Hillary Clinton's emails which I never tire talking about, as you know. Because I want to make sure that you are equipped especially to answer questions and comments from our formers who are out trapped in a Fox News bubble and are hearing all kinds of nonsense. I want to make sure you have the information you need to bat some of that stuff down, and then want to take questions from you about anything.

[00:01:00] Let me start with how I'm speaking about our mission and vision. First of all, this is stuff you all know. Thank you for helping us create a much tighter, in my view, much more powerful mission statement and vision statement. I'm explaining to the workforces as I travel around and I'm now in field office yesterday in Sacramento and that was 38 ...

Mike: Correct.

Speaker 1:

[00:01:30] ... of the second tour, and I'll just keep coming. Because I can only come so fast to all the offices I figured it would be useful for you to hear how I'm speaking when I visit a field office. What I'm explaining to folks is we, the leaders in the FBI, not me, we the leaders in the FBI got together and thought about is there a way to describe what we do in a simpler way with simple being the goal for two reasons. The most powerful things are those that can be expressed simply, and given the nature of our mission and its importance to this country it ought to be able to be expressed simply and also so that everybody can connect with.

[00:02:00] Because what I'm telling folks is there are no support positions in the FBI. Every single person who works for the FBI owns the mission. We all have different roles, we all have different responsibilities, but it's a mistake for people to think somebody else is responsible for the mission of the FBI. My job is somehow to help with that when I do my own thing which is distant from the mission.

[00:02:30]

[00:03:00] The story I've been telling them is one that I learned about John F. Kennedy visiting NASA in 1961 or 62 at the beginning of the race to the moon. Kennedy is walking through a NASA facility, and there's a guy sweeping with a broom and he stops and shakes his hand and says, "What do you do here? What's your job?" The guy says, "I'm putting a man on the moon." Exactly. That is exactly the attitude of an organization with an important mission that is great at accomplishing the mission. We want everybody to own it and understand that they are responsible for it. We think that attitude makes life easier for everybody. Expressing the mission simply was aimed in part at that goal. All of you know our mission is to protect the American people and uphold the Constitution of the United States.

[00:03:30] I've explained to our workforce the reason we wrote it that way is that we wanted to capture both what we do and the way we do it because for the FBI there actually is not a separation. What we do is inexplicably bound up with the way we do it. It's just who we are. It's important to have both of those things in the same statement. Protect the American people and uphold the Constitution of the United States. That's it. Everybody should know it. Everybody should be able to connect to it. Everybody should be able to explain it to their neighbors, to their friends, to high school classes, to recruits. It is one of the most important missions imaginable which is why it's able to be expressed so simply. That's the first thing I'm talking about.

[00:04:00]

[00:04:30] The second I said what we also did was we sat down and said given that that's our vision and given our sense that we are great but not good enough, which as I keep telling people is the attitude of the world class. The latest demonstration of that I saw was during the Olympics. I was struck watching Michael Phelps compete in butterfly heats where he crushed everybody. Then announcer said, "What Phelps does is after each race he goes back in the ready room and watches video of himself and his turns, exactly where he is, his kick, what he's doing with his arms," which seems crazy because he's already killing everybody else. It's because he's world class. He measures himself not against the others. He's already crushing them. He measures himself against himself.

[00:05:00]

[00:05:30] I've been saying that to your field offices because I believe. We are the best in the world, but if we're truly world class we're not satisfied with who we are and so we must constantly find ways to improve. The other thing I've been saying which in most places people laugh at this, other places they grimace I think, I said what's great about the FBI is that answer should come naturally to us because what I've been struck by about us is we hold in our heads two seemingly contradictory notions. We love the FBI and its mission deeply, deeply, and we also believe the FBI has screwed us our entire adult lives. Every single one, audiences love this because they're all nursing this, I said everybody is sitting there they screwed me out of \$47 on the move thing, they broke my household goods, I never got it back. Somehow the FBI has screwed me. That produces a certain grumpiness which I love. That combination of love and grumpiness is the path to perpetual improvement.

[00:06:00]

[00:06:30] What I ask of the workforce is don't ever, ever be satisfied with the FBI. Complain, find things that can be better. Now all of us know and some of you leave people's who's grumpy meter is over a little too far need to achieve a balanced equipoise between love and grumpiness, but love it enough not to be satisfied. I tell them what we did as a leadership team is sit down and say given that we believe we're great and we're not satisfied how do we describe where we would like to be in three or five years from now. That's where we came up the vision statement. We want to be ahead of the threat through leadership, agility and integration. Very simply again.

[00:07:00] We mean ahead of the threat, I tell the workforce, in two respects. First, ahead of the ways in which the threats we're working today are changing us, the ways in which criminal actors or cyber actors or intelligence operatives, the nation's stakes or our terrorist adversaries are changing the way they come at us but also in a much harder way. Ahead of the threat in the sense that we're anticipating the things we're not actually having to deal with today, the new threats, the new challenges, the things that are coming over horizon. That's what we mean by our vision is to be ahead of the threat.

[00:07:30] We want to be ahead of the threat in lots of ways. We picked three as the leadership team because we think that captures just about everything, through leadership, agility and integration. Leadership you get and you have been fabulous at going out there and talking about leadership, at finding talent which is probably our most important responsibility as leaders is actually to find the people who will replace us, test them and grow them and get them ready. Lots of changes coming to way we select leaders. You made an important part of giving us feedback on how to do that better. We'll continue to get that feedback from you, I hope, as we roll these things out. We're going to change the way the FBI selects leaders, trains leaders, mentors leaders to try and achieve that vision.

[00:08:30] The second piece and the third piece are actually connected. Agility is very, very hard in a 108-year-old body. What I've been telling the workforce is there's a danger in being a 108, and it is that you will calcify, that you will be so stiff from being so settled and so structured and so hierarchical that you are unable to recognize a good idea when you see it and change to embody great feedback. That is the FBI's huge challenge. We're gigantic. We have many layers. We're old and wonderful. That is a recipe for calcification.

[00:09:00] The reason for this, Mark Giuliano is the one who first inspired this, the reason we want to constantly talk about agility is it's the way we improve, and frankly, it's the way in which we attract and retain great talent. When I talk to, as I do as often as I can, talent, especially our great young people working cyber, what I hear all the time from them is it's not the money that drives us crazy about the FBI, it's that we have a hard time offering good suggestions and having them heard, good techniques, new approaches because what we're told is we get this soul bending answer which is that's not we've always done it, or I'll run it up that chain and see what people think. It takes 12 months and the idea dies before it comes back.

[00:09:30]

[00:10:00] These are people who grew up in an environment of flatness, of creativity, of innovation, of agility. We are never going to be as cool and as flat as some Silicon Valley start-up. If we're going to embrace that talent, attract that talent, and frankly be as good as we need to be we have to get more agile in all kinds of ways. At the top level it's simply about trying to nudge our culture. We'll never change it entirely, but nudge our culture to be more open to do new ways to doing things, to evaluate ideas, if they make sense to roll them out. If they don't make sense to explain to people why don't make sense.

[00:10:30] When I speak to classes at Quantico, they often ask me, "What's your advice for us?" [inaudible 00:10:14] when you get out there do not let the grumpy old people crush your spirit, people like me. Do not let people who know the FBI so well that they can't see it fresh shut down your ideas. What I tell them is you're not entitle to be right in this organization, you're entitled to be heard, you're entitled to ask a question and get a good answer. A good answer is not because that's the way we've always done it or because that's policy. They have to be open to being wrong, but they're entitled to a conversation.

[00:11:00] I tell them the challenge of being here, I've been here now three years and one month, I can't see the FBI fresh anymore. I've already categorized it in my brain. That's the way the human brain works. The people who can see us fresh and get us better are almost always going to be the newer people, not just in age, but in the FBI. They will see us in a fresh way. We must be open to listening to them, learning from them and being agile enough to change as a result. That's what we mean by agility.

[00:11:30]

[00:12:00] Integration is actually closely connected to this and to our mission statement. All of you know one of our great frustrations with leaders in the FBI is people not feeling connected enough to the mission to realize that they have to [inaudible 00:11:32] themselves together across the visions, across roles. Internal integration is part of what we're trying

to drive. You're going to hear a lot about it today with the creation of a chief information officer to drive integration across. We understand the technology is not somebody's job, it's at the center of all of our work and our ability to connect the mission. The people working in IT or anyplace in this organization that touches technology, which is all of us, has to understand that it's not my stovepipe. It's a single mission that we're all connected to.

[00:12:30] The last piece of integration is we need external as well, so knitting ourselves together better internally, knitting ourselves better together with our partners, and this is where you have been spectacular. The SACs in this organization have marched out and over the last few years connected us, especially the state and local law enforcement and tribal law enforcement, in really, really great ways. Thank you for that. We just have to keep doing that. It's the right thing to do, but it's also at the center of our effectiveness. You have made a tremendous difference. This is not something we do from headquarters. My job at headquarters is to try to give you the resources, the support, the emphasis you need to make those relationships but all politics is local, all relationships are local. Thank you for your attention to that.

[00:13:00]

[00:13:30] That is how I talk to the workforce about our mission and our vision and why we picked those three things to call out, leadership, agility, and integration. I tell them I've also kept on my plate a small group of things because I think they are important enough to be driven from the very top of the organization, and then I typically when I speak to the field offices I call out a few of them, leadership. They talk about the first always. I explain to them why I spend so much time on things like reducing the administrative workload that seem beneath the director. The reason is because it has an impact that cuts across the entire organization.

[00:14:00] I had fun yesterday in Sacramento. Because I said when I had had visit you all three years ago, I think this was one of the smart ass places in Sacramento where people said, "I don't need creds, just need to hold up my BlackBerry and everybody knows I'm FBI." I said, "What's great about the FBI is" ... who remembers BlackBerrys? Now the Samsung suck. That's the way we are. The Samsung is much, much better than the BlackBerry, but everyone's forgotten the BlackBerry. Samsung sucks.

[00:14:30] Our goal is to find something new that sucks less. You'll still complain about it. I said the reason that I and Andy and Dave spend time getting briefed on the phones is because these are the kind of things that are dominating people's view of the work. These things that they perceive, sometimes in reality are, getting in the way of their ability to achieve the mission. We have to worry about them. A phone is not beneath the dignity of the leadership of the FBI, nor is virtual academy, nor is policy, nor are the size of our cubicles, nor are our vehicles. These are the things that an outside influence in how people think about the work and how effective it is.

[00:15:00]

[00:15:30] When they worried about the phones, we have to go to a next generation phone. This is actually a Samsung 7. It could explode at any moment. No, I think it's only the Note that explodes I'm told. This is a Samsung 7 which I'm piloting, but I cracked the screen in only five. We have to make a decision on what we do next. We're close to making that decision.

[00:16:00] These things matter which is why I talk about it so much, why I've kept the administrative workload reducing and on my personal plate. I tell people, "You grumpy people out there, something is bugging you, own it. Go to the the reduce administrative workload site on BUMET and suggest something that I should hunt and kill. Don't just sit there and complain about it. Give me something," because we're actually starting kill off thing after thing after thing. We're running out of things to work. We need more from your workforce.

[00:16:30] Then I talk to them about the diversity. I'm talking about diversity everywhere I go. They're read in the climate surveys this spring a fair amount I don't know whether it's of cynicism, skepticism is right, which word is right, maybe a left thumb of both with respect to diversity and confusion about what I meant and why I'm trying to achieve. I think it's very important that we continue to talk about it. Let me skip to the end first.

[00:17:00]

[00:17:30] You're already making a difference. We're going to talk about that while you're here. You are already making a difference by marching out and showing the FBI to more people and daring more people of color, more women to apply to the FBI. I've been saying to the workforce is I do believe we have a crisis in the FBI. Crisis is too strong a word. Eighty-three percent of our special agents are non-Hispanic, non-Latino white. I have no problem with white people, especially tall, awkward male, white people. I have no problem with them. Our country is going in the other direction. Our country is getting more diverse, more challenging, in my view more wonderful, while the FBI is getting more white in our special agent cadre. To me, that's a recipe for loss of effectiveness. That's also a recipe for a fall down a flight of stairs because at some point people will look at the FBI and say, "That's where white people go to be special agents," then 83% will become 100% overnight.

[00:18:00]

[00:18:30] What I ask the audience is I say, "Please don't raise your hands, but are we more effective or less effective if we're 100% white?" You know don't have to answer that because the answer's so obvious. You don't even need to spend time on it. We're less effective. To my mind, the answer is just solving one of our two problems. We only have one of the normal two problems. Most places struggle to attract people and to make them feel welcome and retain them. We actually do not have the second problem. We're a big family, so we have wingnuts occasionally. In the main, we are a welcoming family. If you look at our turnover stats, almost nobody leaves, especially special agents, whether you're a man or woman, white, black, Latino, Asian, it doesn't matter. You taste what it feels like to do that for a living you do not leave.

[00:19:00] Our problem is actually not retention. Our problem is getting more people to realize what an amazing way
this is to live a life. I'm telling audiences it was summed for me by one of my children who said,
and I said, "Thank you," and she said,
She was right except who wouldn't want to work for this man, this woman
given what we do, what we accomplish and we work with?

[00:19:30] Our problem is actually not enough people realize what an awesome place this is to live and work, and so we have to get out there and challenge more people. We have very high standards. There'll always be high standards. Great. There's lot of talent out there that is not trying to get in that could get into this place that's not trying today because they don't realize how amazing this place is. Our mission which you've already embraced in a great way is to go out there and show people what this place is like. When they get a taste of it, when they see it, it's remarkable the result.

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[00:20:30] You have already increased, I don't know whether you're whether going to get these stats and briefed during this session, you've already increased our applicant pool to all stages of the process, and now at Quantico our new agent classes our non-white representation, the 22%, which is an increase of 4% and is consistent now since this spring. People are excited. They're applying. There's great talent and they're coming into this organization. We have to sustain that. We're going to measure you. We want to see what your plan is and how you're going to out there. You don't control hiring, hiring the at FBI, you know the critical stage for agents is gender blind and color blind. That's the way we want it. Your job is to go out there and show more great people what it's like, you ought to try to get into the FBI. We will change this organization as a result, and instead of this momentum in the wrong direction that number will turn over and we'll be headed a great direction.

[00:21:00] While you'll doing that, that's how I talk to the workforce about it. I don't say the second part to them. We also are underrepresented in our SES ranks, in our senior most ranks. The executive diversity counsel has been great at showing me this and driving us to think about it in a better way. One of the critical parts of this has to be all of us as leaders making sure we know our talent because one of the obstacles, that human experience closest to getting ahead the higher you get is people to tend to know best those who are like them. It's just a natural part of being a human being.

[00:21:30]

[00:22:00]

[00:22:30] We have to overcome that natural part of being a human being and make sure that if we're the people who are identifying talent, we're intentional about reaching out beyond those who are in our near field and getting to know all kinds of people, all of our talent, so that there is not a leg up for someone who just happens to have a rabbi, I don't like that term, by the way, and it's confusing to me, but I think everybody should have and be thought of as talent belonging to the FBI and mentored by all of us. Everybody should have an opportunity to be thought about, talked about, challenged, tested and grown. That's on us. We have to be intentional, especially the people who look like me. We have to be intentional about getting to know them, not just the people that look like me but the people who look different than I do, different gender, different race, different background. Be intentional about getting to know them and test them and make sure that we are in a position when we get a SES or any kind of promotion situation that we know the talent in a great way. That part I don't talk to the rest of the workforce about, but that's how I talk about diversity to them.

[00:23:00] Law enforcement and race. Thank you again. You have shown extraordinary leadership in getting out there and making sure the FBI plays a productive role in two respects in the challenge facing America right now, in doing the work that's necessary to address violent crime where it is spiking, to address police misconduct there it's occurring, to offer training to our law enforcement brothers and sisters side to help them improve, help them show the communities the way in which they're operating, second, the way in which you have served as the [inaudible 00:23:14] around this country. The way in which you have brought people together. As we've said many times, we don't do policing except we're in every community in this country, and we have an ability to bring people together. You have done that in a great way. Please continue doing it.

[00:23:30]

[00:24:00] The crisis we talked about a year ago, it's now not over, actually I think it's worse not because of the effort we've put out but just because of the narrative that is driven by the anecdotes. I'm going to talk about this at the IACP.

Good people in America believe that there's an epidemic of police violence against people of color. Good people believe that. I don't question their heart, athletes are kneeling during the national anthem because they believe there's an epidemic of violence people of color. What's frustrating about that is they have no idea because we don't. Nobody in this country knows whether the number of white, black, brown people shot by police is up or down or sideways over five or 10 years. No one knows because we haven't collected the data.

[00:24:30]

[00:25:00] FBI is going to change that. We are driving. I've been talking in terms of 24 months, but I'm actually not satisfied to wait 24 months. We will have our database up and rolling in the next year to collect the data so we can have informed conversations about this in this in country. Because in the absence of data, anecdotes drive us, and good people see [inaudible 00:24:48] video. They draw a line through it and they say there's an epidemic of violence. That's deeply frustrating for making policy on a national level and having a conversation as that. Whatever the truth is we have to find it, document it, stare it, and figure out how we're going to get better. It's crazy to have your entire national dialog be driven in the absence of data. I just want you to know that you're going to hear something about that today. We are going to lead that effort, already leading that effort because that's a place where we uniquely can change this country.

[00:25:30]

[00:26:00] The Clinton emails which I love, love, love. You all know this. I find it deeply frustrating when people who used to work at this organization appear to have forgotten how we do our work and the nature and quality of the people who do this work. I said this [inaudible 00:25:40] in my emails and on my Wednesday [inaudible 00:25:41], the hard part of the Clinton investigation was actually not what we thought of it after a year of working incredibly hard because the team, this sometimes happens in the press, I think I did the investigation. I do nothing. An all star team came together and did that investigation. Did it exactly the way you would do a complex white collar investigation, heavy technology, everybody lawyered up, all kinds of battles about interviews and how we get the facts we need. They did in a great way.

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[00:27:00] At the end of that, their view of it was there really isn't anything here that anybody would prosecute. My view was the same. Everybody between me and the people who worked this case felt the same way about it. It was not a cliffhanger. What sometimes confuses our workforces, and I have gotten emails from some employees about this, who said if I did what Hillary Clinton did I'd be in huge trouble. My response is you bet your ass you'd be in huge trouble. If you used a personal email, Gmail or if you the capabilities to set up your own email domain, if you used an unclassified personal email system to do our business in the course of doing our business even though you were communicating with people with clearances and doing work you discussed classified matters in that, in those communications, TSSCI, special access program, you would be in huge trouble in the FBI. You would not be able to say to us, "The people I was emailing with were cleared. It was all in the course of the work. I didn't send it to and outside that."

[00:27:30] You would still be in huge trouble. You might well get fired from the FBI. You would surely be disciplined in some severe way if you didn't get fired. Of that I am highly confident. I'm also highly confident, in fact, certain you would not be criminally prosecuted for that conduct. Why do I say that? Because I have personally gone back through every case in the last 50 years that was prosecuted. Nothing close to these facts was ever prosecuted.

[00:28:00] You would be in trouble. You would not be prosecuted. The decision that there wasn't a prosecutable case here was not a hard one. The hard one, as I've told you was how do we communicate about it. I decided to do something unprecedented that I was very nervous about at the time, and I've asked myself a thousand times since was it the right

decision. I still believe it was.

[00:28:30] Here was the thinking. Especially after the attorney general met with former President Clinton on that airplane the week before we [inaudible 00:28:26] with Hillary Clinton, and by the way, all of you know this obviously. I don't know who are formers are at, they're saying you always interview subjects at the beginning of an investigation. No you don't, especially when they know you're coming and they know far more about the facts that you do. In my experience, we interview those kind of people at the end of the investigation where we might be able to jam them up live to us.

[00:29:00] The hard part in the wake of the attorney general's meeting was what would happen to the FBI if we did the normal thing? The normal thing would be send over an LHM even if we didn't write it. Go talk to them. Tell them what we think, tell them whether we think there's something here or whether we think a declination makes sense, but all of that would be done privately.

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[00:30:00] What I said to myself at the time, we talked about it as a leadership team a lot and all believed that this was the right course, try to imagine what will happen to the FBI if we do the normal thing. Then what will happen to us is the Department of Justice will screw around it for Lord knows how long, issue probably a one sentence declination, and then the world will catch on fire, and then the cry in the public will be where on the earth is the FBI, how could the FBI be part of some corrupt political bargain like this, there's no transparency whatsoever, where is the FBI, where is the FBI. Then, after a period of many weeks where a corrosive doubt about us leaks into the public's square, then I'd have to testify in exactly the way I did before. Our view of it would be dragged out in that way, in a way I think would've hugely damaging to us, and frankly, to the Justice Department more broadly and for the sense of justice in the country more broadly.

[00:30:30] We knew it was going to suck in a huge way. I knew. Nothing's that's happened, by the way, the storm has been outside my expectations. I knew what was going to happen, but I also knew after a lot of reflection that we would do far more damage to our beloved institution if we did the normal thing. I decided we're going to do something extraordinary because this is an extraordinary situation. It was not easy for me to call the attorney general that morning and say, "Madam Attorney General, I'm about to do a press conference, and I'm not going to tell you what I'm going to say." She asked some question. I don't remember what it was, and I said, "I'm sorry. I'm not going to answer approximately questions. I hope someday you'll understand why, but I think it's very, very important that I do this independently."

[00:31:00] Then, to offer extraordinary transparency to the American people which I thought frankly was in the interest of justice and in the FBI's interest. That's why we made that decision, but that was a hard one. Reasonable people can disagree about that. Mostly people disagree because they have a hard time imagining that alternative future of what would have happened if we had done the normal thing.

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[00:32:30] Reasonable people can disagree about that. Reasonable people, I guess, can question the investigation. I'm going to talk about some of the particulars in a second. What I say when I talk for our [inaudible 00:31:30] is all you have worked investigations. Has anyone outside your investigation ever known what was really going on inside your work? Has

the press ever known what was going on inside your work? No. I said to our [inaudible 00:31:44] the important issue, though, is did quality people do this investigation and did they do it without political interference? Frankly, that should end the conversation about the investigation. Even if it doesn't, questions about the investigation itself were not crazy. I'll talk about that. What's crazy is the suggestion that we did it in some way that was political. That I have no patience for because you can criticize the decision to announce it. You can even try and armchair quarterback the investigation. You have no basis in fact of experience for suggesting that the FBI was compromised on this. Why the heck do you think I announced independently because that's who we are and that's the way we did it.

[00:33:00] I'm going to be pretty aggressive on that. I actually said in my most recent visit to Capitol Hill have we really gotten to a place in American life where everything must be torn down or everything must be attacked in the name of partisan passion? I said to Trey Gowdy [inaudible 00:32:47] from South Carolina, I said, "Someday when this political craziness is gone I hope you'll take a quite moment to look back on this piece of work because what you will see is this was done exactly the way you want the FBI to do its work. Honestly, competently and independently."

[00:33:30] Honestly, people in this country are so trapped in these partisan bubbles, at least in my lifetime a uniquely crazy time. What's interesting about it is their each still trapped in their bubble, but those trapped in the right bubble don't realize those trapped in the left bubble are also pissed at me. I said to my kids sometime when everybody's mad at you maybe you got it right, but they don't know because they're all trapped in their own separate bubbles because they're the ones getting all their news from one place, one's getting it from another place.

[00:34:00] What I'm getting from the left is savage attacks for violating policy and law by talking publicly about somebody who wasn't indicted, by revealing facts that you should've been prescribed from revealing by decades of tradition. All of that's nonsense just as this is nonsense. It is a uniquely difficult time. I expect that after the election, which is coming up I'm told, we will have probably more conversation about this.

If Secretary Clinton's elected president, I would expect the Republicans still control one or both houses of Congress, especially the House. I would expect it will be still this. I want to make sure you're equipped with some of the details that you may continue to hear about. Let me hit some of them.

[00:34:30] Immunity. I know I'm talking to a roomful of people who've done complex investigations, and so you understand there're all different kinds of immunity. They range from absolutely transactional immunity to queen for a day to get [inaudible 00:34:35]. As you would expect, in the course of this investigation those tools were used. Actually, complete transaction wasn't. It was not used.

[00:35:00] Two guys in particular who've been involved in setting up her server [inaudible 00:34:50] who realized that in the spring [inaudible 00:34:50] that he had forgotten to delete what he had been instructed to delete in the earlier year, panicked and went and deleted the stuff. That was of a great interest to us to figure out so how did that happen and why did you delete it. Who told you to delete it? Who knew you were deleting the stuff? Maybe they were making an obstruction case here. Not surprisingly. That guy would not talk to us to be to legitimate [inaudible 00:35:20] concern, talk to us and be BS'ed us, but would not come clean.

[00:35:30] You see there a use of letter immunity to try and get back that guy's information for us. Similar immunity granted to another guy. Again, letter immunity use immunity for another guy who was also involved in setting up the server. He would talk to us. Congress could not appear to understand what a queen for a day was because he kept saying, "He gave me two grants of immunity." No, we didn't. We interviewed him. It was a queen for a day and the government [inaudible 00:35:50] session, then there was a letter of agreement to get him to cooperate with us fully.

[00:36:00] There was one other guy I'm going to try and remember. There was one other guy from the State Department who wouldn't speak to us. I'm not even sure why he wanted immunity. The Department of Justice gave him immunity so that they could interview him again. Use immunity.

[00:36:30] Then there were the laptops. Near the end of this investigation, we knew that two of Secretary Clinton's lawyers had done a culling where theywent through the emails and decided which ones were work related and which ones weren't, which ones could be deleted, which ones would be kept and produced. We knew from interviewing people that they had done that using two laptops. Each lawyer had a laptop. It was very, very important for reasons I hope you understand immediately, so the investigative team to get those laptops so we can figure out forensically was their monkey business, or is there stuff still on there that offers us a clue or there is classified information still on those laptops that we need to recover.

[00:37:00] You can also imagine given that you're experienced people the challenge in trying to get a lawyer to give you their laptop that you use for all of their legal work. Huge concerns there about attorney-client privilege, attorney work product. He had a few options there. One was serve them with a Grand Jury subpoena and then litigate the work product protection and the attorney-client protections for probably the next five years, or reach some agreement with them to voluntarily produce it and give them some sort of assurance as to how the information will be used on that laptop.

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[00:38:00] The Department of Justice, all of you that as we don't do, letter of agreements. Department of Justice does. Department of Justice reached an agreement at the request of the lawyer for these two lawyers that for act of production of immunity is the way I understand it in my career that is you give this laptop, we will not use anything on the laptop against you personally in a prosecution for mishandling of classified information or anything else related to classified information. Reasonable to ask for a lawyer to ask to give us the laptops and enabled us to short circuit the months and months of litigation that would've come otherwise. I was actually surprised they agree to give us the laptops.

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[00:39:00] We go the laptops. They also asked the Department of Justice lawyers assess the immunity issue. They asked this has lots of sensitive stuff on these laptops. They belong to these lawyers. They used it not for this business. We'd like to you destroy the laptops at the close of the investigation. I'm going to forget the exact words. The Department of Justice said consistent with [inaudible 00:38:34] the policy we will dispose of the laptops at the conclusion of the investigation. We have destroyed no laptops. The consistent with law and policy was put in there to basically make, frankly, surplusage the rest of it. We're not going to get rid of anything unless we treat it the way we other evidence. When this investigation is over someday, when this file is closed, when Congress' subpoenas and requests are done, then we'll have to decide is this evidence that is retained permanently or is destroyed, and there is anything about the fact that there may be classified information still on there that would effect our decision to destroy it. We have destroyed no laptops. We will not destroy laptops except consistent with the law and our policy.

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[00:40:00] Those are the two things that I've heard about recently lately they're covering up by destroying laptops. They handed out immunity like candy. I hope you also notice our subject here was Hillary Clinton. We wanted to see this very aggressive investigative team wanted to see can we make a case on Hillary Clinton. To make that case they worked up from the bottom. The guy who set up her server, the guy who panicked and deleted emails, he is really not our interest. Out interest is trying to figure out did he give us anything against her. I hope that's useful to you. May you can ask me more questions about this an obviously Bill Priestap knows this case by well. Andy knows this case very well and who else knows this case very well who's sitting here. We're happy to try and answer these questions.

It is silly. Silly is the right word to suggest the FBI did anything other than our usual professional work here. I'm very proud of the work we did.

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[00:41:00] Last thing I want to tell you before I take your questions, go to your questions, a lot of new SACs here. Here's my advice to you, fake it. It is very important as a leader, it's weird to be a leader. It's weird to have people watching you. It's weird to have people treat you with respect that frankly you don't believe that you deserve. If you're the kind of leaders we want that's exactly how you feel. If you feel you are deserving of the respect you get in your role you're not the kind of leaders we want. You should have a sense of the imposter complex. You should have a healthy sense that why the crap do they think I'm so great. I want you to please don't lose that. It can also get in the way of you're being effective.

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[00:42:00] My advice to the leaders is there will be a period of time when the imposter complex is larger in your life than later on. You have to fake it a bit. Fake it until you make it. Walk like you're in charge. Speak like you're in charge. Go to places like you're in charge. I know it's weird. It seems like weird advice. Some of the best advice I've gotten when I get in new leadership roles, fake it until you make it. As you're faking it the most important thing you can do is go see your folks. When I see offices that are productive and happy I'm almost always see a leader who knows his or her people. Who gets out and walks around and sees them. This can be hard especially if you get stuck in a pattern where you haven't done that, you're in a role and you really haven't been a walk around sort of person, you have to force yourself to break that mold. Even if you've been in a role a while break out and go see your folks that's the first thing.

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[00:43:00] As you talk to them, just listen to them. You're not going to remember it all, but how are things going, what do you think, what are we doing well, what don't you like, what's great here. The second thing is communicate to them. Send them emails, have town halls, just talk to them. It's amazing what a difference it can make. I haven't even talked about substantive, but that touching your people, listening to your people, communicating to your people is what they crave. It will make it so much easier for you to get the rest of what we need out of our people which is productivity and commitment to excellence and integrity, all of those other things, so much easier to get out of a workforce when they feel like their leader is connected to them, cares about them and knows them. I know it seems silly, it seems a little bit beneath rich people of substance like we are, but just getting out and walking around makes a world of difference.

[00:43:30] To you new leaders, fake it, and then eventually you'll feel it. I can remember I [inaudible 00:43:08] once before, but the new people will not have heard this. When I became US Attorney in the southern district of New York what was weird about it was I was plucked. I never applied for the job, never even thought that I'd be going back to New York. I got a call literally out of the blue when in a AUSA in Richmond after 9/11 saying will you go back to New York and be the US Attorney? I had thought it was a scam actually. I thought it was one of my friends, so I started to say why don't you kiss my ... and the guys said, "No, it's not a joke." He said, "I'm calling from the White House. This is not a joke. The President would like to know will you go back to New York." [00:44:00] The reason I'm telling you this is it was almost this weird out of body experience because day one I'm an AUSA in Richmond, Virginia, which I love. Day two, I'm in the US Attorney's office on the eighth floor in the southern district of New York. Everybody's looking at me like I'm in charge, which I am. It was a very weird transition. It took me a while to feel like I was the leader and that's why I'm giving you this advice. I probably squandered precious time by not, as odd as it sounds, it's the way you stand when you're in charge, just is. There's a way you interact with people when you're in charge. Not in a jerk in charge, but in charge and in a nice kind way you stand a different way. I walked past my secretary one day and she had been there for many years. I'd been there about six months, and she was a very funny person and she said, "You're feeling it." I said, "What?" She said, "There goes the United States Attorney for the southern district of New York." [00:45:00] [00:45:30] I said, "What are you talking about She said, "I can tell by the way you're walking you know you're the United States Attorney for the southern district of New York today." She said, "It wasn't always that way." That's why you b6 -3 give you this advice. You don't have time to waste feeling your way into a role, so fake it, and then eventually you'll make it. You're in this job. We chose you. We weren't drunk when we chose you. We chose you for the role, some of us weren't. We chose you for this role because you have the values, abilities and skills to be great leaders. We agonize over these choices, and so you have it. You really won't be faking it day one, but it'll feel a little bit that way. Please do that, please do that. Let's go to your questions. Those are things I wanted to hit you with. Please, if they're questions you're getting about the Clinton business I'd love to hear it, so can equip you to deal with it. Good ahead, Mike. Mike: [00:46:00]

[00:46:30] Last week we [inaudible 00:45:40] the first somewhat decent critique on the Clinton investigative process. I think what it involved around if we [inaudible 00:45:51] step back a little bit highlighted [inaudible 00:45:54] by DOJ. It's not in this investigation [inaudible 00:46:00] increasingly encounter intelligence [inaudible 00:46:04] where DOJ influence on the investigative steps [inaudible 00:46:11] more involved in the interviews, on dictating things, dictate new processes. This person actually saw somewhat of a ring of truth into the critique. It doesn't only apply to Clinton, but I think we've all seen [inaudible 00:46:31] cases a more [inaudible 00:46:33] and [inaudible 00:46:33] the Asian workforce.

Speaker 1:

[00:47:00] I think that's fair. I think the Hillary Clinton investigation scared the daylights out of the Department of Justice and the lawyers there but not because of her pick of political affiliation, but because they tend as a rule to be frightened by high profile cases. They tend as a rule to be frightened in ways that just mystify me by important lawyers. If there's an important influential lawyer representing a witness or a target, they're intimidated.

[00:47:30] I'm talking about the Hillary Clinton investigation, just in general I find this. There's no doubt we were very aggressive in the Clinton investigation. It was where we supposed to be. We made it clear we were getting those fricking laptops. You better go out and figure out how to get those laptops. That was our message to the Department of Justice. We want to see those laptops. Their investigative team saw there might be value there. I get that critique, but I actually don't think it's unique to the Clinton thing. I do think as we talked about before there is a risk aversion that has spread like a virus across the US Attorney community, across Justice.

[00:48:00]

[00:48:30] As I've said to you before, my hope is take a run at trying to get the next crew to think about it a little bit differently, but it's a long battle because it was a long time getting there. Some of it's the aging of their workforce, some of it is high profile controversies over cases that [inaudible 00:48:06] casings like that. They've over interpreted those cases. Some of it is the smart on crime business that has sent a message to US Attorneys on careful about the cases you do to make sure that they're uniquely Federal. It's a crazy way to think about the world. I think the question you should ask is can I as a Federal prosecutor uniquely make a contribution to making my community safer. All of that is combined to make a little bit of this going on.

[00:49:00] I don't have a great answer for that. It's not that way everywhere, but id' say the majority of new [inaudible 00:48:42] attorney officers that are not as aggressive as they should be. That's a fair critique. Like I said, I don't think it's criticique of the Clinton thing in gel because we got what we wanted, and we got the access we wanted, we got the documents we wanted, we got the interviews we wanted and we worked it like crazy. It's fair in general.

Audience:

[00:49:30] It's certainly the messages, the leaders, the workforce to our agents and analysts don't take note to [inaudible 00:49:13]. You go back and you have conversations and you're butting against the big [inaudible 00:49:18] don't take no. You push it through your field office, to the SAC, push it back down. Give us the opportunity to be [inaudible 00:49:27] to fight it for you. I think [inaudible 00:49:28] in the field we just gave us because we knew it wasn't [inaudible 00:49:31]. It wasn't a big deal. It wasn't a big important case, so just gave up and I think the message [inaudible 00:49:38]. Give us the opportunity to step in and [inaudible 00:49:40].

Speaker 1:

[00:50:00] Especially as a new crew comes in we need examples. I don't know who it will be Attorney General, who will be Deputy Attorney General, but whoever it is I'm going to go and speak to them right at the beginning and say if we have a problem, and then I'll need examples, real life examples, to say look what's happening here. I tried. I'm going to speak I'm sure again to all the US Attorneys. I tried to, I told you this before, I tried to shame them last time. I said, "If you find that your most important case is being worked in Europe that should make your head explode. If you find FBI special agents are in state court you should demand to know why."

[00:50:30] I was US Attorney at southern district of New York, if we found out that FBI special agent was on a case at the Manhattan DA was prosecuting or the Bronx DA or the Westchester DA, there would be a meeting to say what the heck is going on here. You're a Fed. I can't imagine how people can look themselves in the mirror as US Attorneys and not have that same reaction, but it goes on all the time. I think they're handling that. The locals are taking care of it. New York seems to have capabilities that we don't have here. We'll try again.

Audience: [00:51:00]

[00:51:30] Can I weigh in on that just for one second? What piece of that [inaudible 00:50:58] noticed the troubling [inaudible 00:50:59] is that we're seeing the same thing in that aids and [inaudible 00:51:03] trying to push thing forward and getting resistance and they're giving up. The thing that concerns me is to give up frequently it takes shape of we try to get this thing done [inaudible 00:51:23] or the US Attorney's office as opposed to politically, and therefore, we didn't [inaudible 00:51:26]. I think that is an oversimplification of the issue, and I think it's intentionally guaranteed for us. It increases this environment [inaudible 00:51:40] of highly polarized relationships between us and our departments at the DOJ.

[00:52:00]

[00:52:30] Every time we get push back when we don't get the answer that we want from our US Attorney or the DOJ it's not because [inaudible 00:52:00] Democrats or they're [inaudible 00:52:01] with the Republican. It may be that they are just reluctant, they're not as forward leading, they're not as aggressive to what [inaudible 00:52:08], and so the answer is not to give up, but it's to go back [inaudible 00:52:15] stronger argument [inaudible 00:52:18] SACs on our side. I think our [inaudible 00:52:21] our example and our communication to keep them in that [inaudible 00:52:28]. Don't [inaudible 00:52:29] write it off or to be making those politics. [inaudible 00:52:34] just do your job, get the facts and [inaudible 00:52:35].

Speaker 1:

[00:53:00] Some of the attention is inevitable. I would expect our people and US Attorneys are just not going to agree all the time. Most are going to go one way. That's okay. I had great relationships with FBI agents throughout my career and there were times when I said, "You guys, I can't get this one across the goal line. I hear what you're saying, but I won't be able to win this one." Some tension is natural and inherent. What we're talking about is the stuff that strikes us as falling outside the natural ... Eric.

Eric:

[00:53:30]

[00:54:00] Just on that same note, one of the things my US Attorney really [inaudible 00:53:11] CTS [inaudible 00:53:11] are pushing back because [inaudible 00:53:15]. That seems like that's the new way of keeping the cases from moving forward [inaudible 00:53:38]. The community doesn't [inaudible 00:53:39] that's really taking it ultimately out of our hands [inaudible 00:53:49] argue that. We push it headquarters and [inaudible 00:53:55] it really doesn't satisfy because they [inaudible 00:53:59]. We can't do this because it doesn't [inaudible 00:54:01]

Audience: At least allow us the [inaudible 00:54:03] give us the option and [inaudible 00:54:05]

Audience: We do.

Audience: Are you referring what you're getting at [inaudible 00:54:08] referring [inaudible 00:54:08].

Audience:

[00:54:30] I think that now I'll talk just about the decision. We're starting to see that as the reason that our US Attorneys are being told [inaudible 00:54:28]. I don't know that's a [inaudible 00:54:32]

Audience:

[00:55:00] We have seen issues particularly in the last part of the year [inaudible 00:54:41] belonging to [inaudible 00:54:46]. It's very tough. It's [inaudible 00:54:52] we see it [inaudible 00:54:53] opposite [inaudible 00:54:53] we see this not disruptives but are in part with US [inaudible 00:55:08]. Those are ones that got [inaudible 00:55:13].

Speaker 1:

[00:55:30] [inaudible 00:55:33] who begin a new administration will need [inaudible 00:55:15], need cases. As a new Attorney General is going to say to me, "I'll be on the lookout." The more examples I can say look at this, look at this and bring those to the US Attorneys. The first US Attorneys conference will probably be in May, and so I want to be equipped to really give them a full presentation. What else?

Audience:

[00:56:00] After [inaudible 00:55:34] we've had some issues in San Francisco [inaudible 00:55:38]. This year, we've [inaudible 00:55:46] this is how we are [inaudible 00:56:02]. We haven't been able to [inaudible 00:56:15] to see how this [inaudible 00:56:16].

Speaker 1: That's why I want them there.

Audience: [inaudible 00:56:16]

[00:56:30] Speaker 1:

[00:57:00]

The reason I insist the US Attorneys be in our TRP process, couple reasons, first they can add value. The second, mostly, I want them to own it. When we're done, I want you all to be able to go say, "You were there. We decided. You understand our [inaudible 00:56:41]," because they're always giving me this we need to do more white collar cases, and my answer is okay, bring your logic. Bring it. Come to the meeting and show us why we need to do more a particular kind of cases. We are logic driven in the FBI. We don't just do a certain kind case because you want to run for office on that kind of case later. We do it because we've identified it as a threat and this AOR that we need to mitigate. Bring us your facts. Bring us your logic.

Like I said, at the end I want to be able to say do you understand why we do what we do, [inaudible 00:57:12] now. It's not going to be perfect, but at least that gives us a tool against it. Mike.

Mike:

[00:57:30] Another challenge I think we're seeing is on the backend of these cases [inaudible 00:57:30]. I have my US Attorney [inaudible 00:57:33] supervisor because [inaudible 00:57:34] the rest of the country. He just [inaudible 00:57:38] US Attorney's office is telling me to talk about [inaudible 00:57:46] guidelines and why that is, also more pretrial verticals and also [inaudible 00:57:59].

[00:58:00] I think it is about investigating [inaudible 00:58:04]. I got [inaudible 00:58:08] US Attorneys who say to get out there and [inaudible 00:58:22].

Speaker 1: Good, thank you. What else? Christian.

[00:58:30]

Audience:

On the issue of staff [inaudible 00:58:30] special agents [inaudible 00:58:33] still [inaudible 00:58:37].

Speaker 1:

[00:59:00] It's a possibility. I don't know whether Rich ... normally you would get a conversation. You're going to talk about the 18 budget? Yeah, it's a possibility which is one of the reasons it was so important to us staff up. First of all, as you know, the administration was trying to take positions from us and saying you don't need them because you haven't filled them. At the end of this year, thanks to a lot of good work, thank you for this, we're going to be at a place where we will hire to replace those who retire. [inaudible 00:59:05] folks doing a great job of predicting with [inaudible 00:59:11] help what the attrition rate will be, the retirement rate, so we can hire in advance of it.

[00:59:30] Once we get there, then we [inaudible 00:59:18] to the 18 budget to go back and say, "We need enhancements for this and this and this." You're going to cover the [inaudible 00:59:27]. We're on a CR now which is not great for 17. Once the enact the budget we'll be okay for 17, include some of enhancements for us, but we'll need your input on this, what do you need for 18.

•	ou felt this. You're getting a lot of new people. Quantico is bursting. It's such a cool place to be going down to the executive and residents, is that right?	is
Audience:	[inaudible 00:59:57]	

[01:00:00] Speaker 1:

[01:00:30]

Yeah, you will find that experience very, very exciting. The nature and quality of the people that are coming into this place and it's jammed. We met our goal of hiring about 3,000 people before October 1. We're going to hire about 2,500 next year, and then we'll be up in the 98%, 99% staffing across the board which is a great thing. Our challenge is so many people are excited about coming into this organization now that we have Ph.D.'s becoming SOSs because that's their vehicle in, and so it's going to become and embarrassment of riches. You're going to have tremendously talented people who in doing roles and look into move into other roles. All of you know know the turbulence that creates for you, but it is an exciting time. Thank you for the pain you put up with in sending us great people to be counselors.

[01:01:00] We all know that anybody who on short notice could voluntarily go to Quantico for 20 weeks is not necessarily a start.

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Rybicki, James E. (DO) (FBI)

From: Rybicki, James E. (DO) (FBI)

Sent: Saturday, October 15, 2016 6:36 PM

To: J Rybicki

Subject: Fw: FBI Top Story: FBI Live Event: IACP 2016

From: FBI

b7E -3

Sent: Saturday, October 15, 2016 11:58 AM

To: Rybicki, James E. (DO) (FBI)

Subject: FBI Top Story: FBI Live Event: IACP 2016

FBI E-Mail Updates

FBI Live Event: IACP 2016

On Sunday, October 16 at 3:30 p.m. EST, watch a livestream of FBI Director James Comey as he hosts a discussion at the 2016 International Association of Chiefs of Police conference in San Diego, California. **Details**

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From: J Rybicki

Sent: Monday, October 17, 2016 2:51 PM

To: Rybicki, James E. (DO) (FBI)

Attorney General Loretta E. Lynch Delivers Remarks at the 123rd Conference of the International Association of Chiefs of Police

San Diego, CA United States

Monday, October 17, 2016

Remarks as prepared for delivery

Thank you, Chief [Terence] Cunningham, for that kind introduction; for your exemplary service as Chief of the Wellesley Police Department; and for your outstanding leadership of the International Association of Chiefs of Police (IACP). I also want to thank Vince Talucci and all of the IACP's executive officers for their work on behalf of our nation's law enforcement personnel. I want to acknowledge my friend and colleague Jürgen Stock, the Secretary General of Interpol, which has been a critical partner to the Department of Justice on a number of vital issues, from cybersecurity to human trafficking. And of course, I want to thank all of you, the dedicated men and women who wear the badge. You are the backbone not only of the IACP, but of the communities you serve throughout the United States. Each and every day, you and your colleagues offer your lives for ours to keep us safe and I am so grateful for your courage, your commitment and your selflessness. On countless days and in countless ways, you make real the commitment that is bone deep in all of you – to protect and to serve. Please know that you have a staunch ally and a willing partner in this Department of Justice.

It is a privilege to join you for the 123rd annual gathering of the IACP. As the world's oldest and largest association of police executives, you provide vital leadership in maintaining high standards, advancing new policies and promoting best practices in the law enforcement field. That is not an easy role to play, especially now, when policing issues have come to rest at the heart of so many points of contention in our society. Leadership – particularly in these times and on these issues – places you at the center of controversy. It opens you to criticism. It requires you to take risks. But without courageous leadership, we cannot create positive change and the IACP should take immense pride in its willingness to always stand in the vanguard. That was true when you were founded in 1893 and it is no less true today, as you engage with the work of our time: the work of improving relationships between law enforcement officers and the communities we serve.

Every day, brave officers like you serve your communities with honor, integrity and distinction. I have seen your outstanding efforts firsthand. During my time as a federal prosecutor in Brooklyn, I worked side-by-side with dedicated members of the rank and file. As Attorney General, I have had the privilege of traveling all over the country to talk to you at roll calls, to listen to your suggestions and ideas and to personally thank you for your service. Whether I was in Orlando, after the shooting at the Pulse Nightclub, in Baton Rouge at the memorial service for the officers who were taken from us too soon, or in Newark, where I met with the officers who risked their own safety to arrest a man suspected of setting off bombs in New York and New Jersey, one thing has always stood out to me. Your dedication never wavers. Your courage never fails, despite the very real dangers that you face. I have written too many letters to the loved ones of officers who gave their lives in the line of duty — officers like Lesley Zerebny and Jose Gilbert Vega, who were taken from us in a callous act of violence earlier this month in Palm Springs, not far from where we gather today. There is no question that the American people owe their law enforcement officers a debt of gratitude that can never be fully repaid. And so let me take this opportunity, as an American and as the Attorney General of the United States, to say thank you for all you do.

What's more, your jobs are becoming more challenging by the day. The circumstances in which you do them are changing rapidly. Today, law enforcement is asked to do more than ever in our communities. We call upon you to respond to so many of the issues facing our communities today, from homelessness to drug addiction – issues that often fall outside traditional definitions of law enforcement. You may be asked to enforce laws you may not agree with, or enact policies you might not like. And through all of that, you are often the only face of government in your communities and when citizens are frustrated or angry at their government, that anger and frustration lands on you.

These challenges are just some of the reasons why it is more important than ever to have positive relationships with the communities we serve. But in many communities – especially communities of color – the bonds of trust between citizens and police have been frayed. And although this issue is as old as America itself, deeply rooted in our history's long and painful history of racial tension, the latest iterations are as recent as the evening news. I know that this places exceptional pressures on you, the men and women who wear the uniform. But I also know that across the country, you and your colleagues are rising to the challenges before you.

My first day on the job – the day I was sworn in as Attorney General – was the day of Freddie Gray's funeral – the day that violence and unrest erupted in Baltimore. In considering how to respond, I looked to the field – I looked to you. Shortly after taking office, I embarked on a 12-city Community Policing Tour in order to learn about what communities across the country are doing to surmount difficult pasts and to build brighter futures. In phase one of the tour, I traveled to six cities taking courageous steps to overcome histories of troubled community-police relations. And in phase two, I visited six cities that were doing exceptional work implementing the six pillars identified in the final report of the President's Task Force on 21st Century Policing. Everywhere I went, I saw law enforcement and communities coming together to improve life for all their residents. I saw citizens and law enforcement replacing stereotypes and suspicion with understanding and outreach. And I saw proof that we are not fated to accept divisions between communities and police. I saw proof that if we can summon the will, we can begin to close the fault lines in our society.

I have been moved and inspired by the great work that is happening around this country. And it is not just happening in the field – the work that IACP is doing to restore trust and improve cooperation is important because it provides guidance and support. Through programs like the Institute for Community-Police Relations; which the Department of Justice is proud to help fund, you are helping bridge painful divides and close harmful rifts. You are making clear that law enforcement officers are not separate from the communities they serve, but integral to them. And you are doing your part to realize the promises that define our country – the promises of liberty, justice and equality for all.

The Department of Justice — and the entire Obama Administration — is lending its full support to that vital endeavor. Our roadmap is the final report of the President's Task Force on 21st Century Policing, which was released last year. Among many other recommendations, the report called for better data on all officer-involved shootings and in-custody deaths. This information is essential to an informed and productive dialogue about policing practices, and on Friday, I was proud to announce that the Justice Department is taking a number of steps to enable the nationwide collection of use-of-force data. Most notably, the FBI announced its National Use-of-Force Data Collection program in the Federal Register and the Bureau of Justice Statistics issued a proposal for collecting death-in-custody data from state and local agencies. These are preliminary actions, but their significance is unmistakable. They represent the framework for initiatives that will allow all of us to gain what we have sorely lacked: an accurate picture of what is actually happening out in the field. Better information helps everyone. But it is hard work to put something like this together. And we could not have done this work without you. I know we have only come this far because of the leadership of our state and local partners; many of you in this room worked with the FBI to create its collection portal. Your work will make a difference, and in the days ahead, I hope we will continue to work together as we develop these systems.

The department's data initiatives exemplify our commitment to implementing the task force's recommendations in our own work. But the real impact of community policing is felt at the local level, which is why we are working in a number of ways to help local agencies adapt best practices of community policing in their jurisdictions. IACP has been a valued partner in that effort, especially through the Initiative to Advance 21st Century Policing. This groundbreaking program – a partnership between IACP, CNA and the department's Office of Community Oriented Policing Services, or COPS Office – gives 15 jurisdictions expert guidance and hands-on assistance as they implement task force recommendations. Together, we are creating a series of model districts that other municipalities can learn from and I want to thank you for your

critical support of this promising venture.

Partnerships with groups like IACP are just one way that we are working with local authorities to improve community-police relations. When tensions erupt into unrest – as they did last month in Charlotte, North Carolina – our Community Relations Service sends mediators to help ease tensions and facilitate dialogue, giving communities the space they need to begin the healing process. Through our collaborative reform process, we work with police departments nationwide who seek policy assistance as well as the latest in training and assistance. When there are indications that residents' rights are being systematically violated, our Civil Rights Division stands ready to investigate patterns of unlawful police practices, including claims of bias and discrimination. And, when necessary, the division is prepared to seek court-enforceable consent decrees like those that we have reached with the police departments in Ferguson, Newark, and Cleveland. In all of these scenarios, our goal is to work alongside departments to guarantee the constitutional policing practices that are so essential to community trust, to effective law enforcement and to the safety of citizens and officers alike.

Of course, in order for you to do your jobs as safely and effectively as possible, you must have access to the best tools and training available. We're helping you do that in a number of ways – from giving you the funds to hire additional officers through our COPS Office, to helping you purchase bulletproof vests through our Office of Justice Programs. Providing you with these resources has never been more important – because law enforcement has never been asked to meet so many challenges. I know that one of the challenges you are increasingly asked to address is people with untreated mental illness, a difficult issue that law enforcement officers raised at every stop on my Community Policing Tour. Without the proper training, encounters between officers and individuals in mental health crisis can quickly become dangerous for everyone involved and we have to do more to help you respond.

Obviously, that begins with improving services for individuals in need of specialized care. Mental illness is first and foremost a public health issue, not a law enforcement issue and the Obama Administration has taken a number of steps to expand access to the mental health treatment and services. As part of our commitment to helping you address this growing challenge, I am proud to announce that today, our Bureau of Justice Assistance has launched an online Police-Mental Health Collaboration Toolkit, available through the department's website. This toolkit is designed to be a one-stop learning center to help departments craft comprehensive responses, offering guidance on everything from building relationships with behavioral health agencies to educating officers to be safe in encounters with people in mental health crisis. We are launching this toolkit today in coordination with IACP's groundbreaking "One Mind" campaign, which asks law enforcement agencies to pledge partnership with mental health agencies and to ramp up crisis intervention training within their ranks. Once again, we have turned to you, and I am hopeful that together, our efforts will improve officer safety and bolster law enforcement's capacity to get individuals with mental illness the help they need and deserve.

Your "One Mind" campaign is a perfect example of the kind of innovative partnerships that are at the very core of community policing. Such partnerships enable more effective responses to the challenges of our time – not only crime, but also poverty, health, education and employment. They foster an understanding that public safety is the responsibility of all the members of a community – not just those who wear the badge. And above all, these partnerships remind us that a community is defined by so much more than geography. They remind us that we share the same desire for peace, the same yearning for justice and the same hope that our children will enjoy lives of safety and prosperity. These are the aspirations that unite us and I know – because I have seen them – that they are so much stronger than the disagreements that divide us.

My challenge to you this morning is to continue building partnerships. Seek collaboration not just with the Department of Justice; not just with other law enforcement agencies; but with any groups that can help you build a stronger and more united community. From doctors to religious leaders, from employers to housing developers, and from schools to civil rights organizations, the opportunity for cooperation – and the potential for progress – is enormous. Mutual agreement may not be the first thing that occurs. Mutual trust will have to be earned. But we can only find the right approach – we can only build trust – by working together. Reaching out, forging coalitions, and finding common ground: that's what leaders do – and if there is anything that IACP has demonstrated throughout your proud history, it is that this is an organization of leaders.

I want to thank each and every one of you for the leadership that you show in your communities each and every day. Thank you for your courage, your dedication, and your valor. Keep working to empower your

communities - and know that the Department of Justice will continue to stand beside you at every step of the way. Thank you.

From: J Rybicki

 Sent:
 Monday, October 17, 2016 2:56 PM

 To:
 Rybicki, James E. (DO) (FBI)

U.S. police chiefs group apologizes for 'historical mistreatment' of minorities

By Tom Jackman, October 17 at 7,76 PM

Terrence M. Cunningham, president of the international Association of Chiefs of Police and chief of the Wellesley, Mass., police. On Monday he offered an apology for historic mistreatment of minorities by police. (IACP)

The president of America's largest police organization on Monday issued a formal apology to the nation's minority population "for the actions of the past and the role that our profession has played in society's historical mistreatment of communities of color."

Terrence M. Cunningham, the chief of police in Wellesley, Mass., delivered his remarks at the convention in San Diego of the International Association of Chiefs of Police, whose membership comprises 18,000 police chiefs from around the world. The statement was issued on behalf of the IACP, and comes as police executives continue to grapple with tense relationships between officers and minority groups in the wake of high-profile civilian deaths in New York, South Carolina, Minnesota and elsewhere, the sometimes violent citizen protests which have ensued as well as the ambush killings of officers in Dallas and Baton Rouge.

Top police chiefs have long recognized the need to maintain good relations with their communities, of all races, and not allow an us-versus-them mentality to take root, either in their rank-and-file officer corps or in the neighborhoods where their citizens live. Cunningham's comments are an acknowledgement of police departments' past role in exacerbating tensions and a way to move forward and improve community relations nationwide.

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"Events over the past several years," Cunningham said, "have caused many to question the actions of our officers and has tragically undermined the trust that the public must and should have in their police departments...The history of the law enforcement profession is replete with examples of bravery, self-sacrifice,

and service to the community. At its core, policing is a noble profession."

But Cunningham added, "At the same time, it is also clear that the history of policing has also had darker periods." He cited laws enacted by state and federal governments which "have required police officers to perform many unpalatable tasks... While this is no longer the case, this dark side of our shared history has created a multigenerational — almost inherited — mistrust between many communities of color and their law enforcement agencies."

Cunningham continued, "While we obviously cannot change the past, it is clear that we must change the future...For our part, the first step is for law enforcement and the IACP to acknowledge and apologize for the actions of the past and the role that our profession has played in society's historical mistreatment of communities of color."

He concluded, "It is my hope that, by working together, we can break this historic cycle of mistrust and build a better and safer future for us all."

Jeffery Robinson, deputy legal director of the American Civil Liberties Union, applauded Cunningham's statement. "It seems to me that this is a very significant admission," Robinson said, "and a very significant acknowledgement of what much of America has known for some time about the historical relationship between police and communities of color. The fact someone high in the law enforcement community has said this is significant and I applaud it because it is long overdue. And I think it's a necessary first step to them trying to change these relationships."

After his comments, Cunningham told The Post in an e-mail that, "We have 16,000 police chiefs and law enforcement officials gathered here in San Diego and it is an important message to spread. Communities and law enforcement need to begin a healing process and this is a bridge to begin that dialogue. If we are brave enough to collectively deliver this message, we will build a better and safer future for our communities and our law enforcement officers. Too many lives have been lost already, and this must end. It is my hope that many other law enforcement executives will deliver this same message to their local communities, particularly those segments of their communities that lack trust and feel disenfranchised."

The IACP members present for Cunningham's speech gave him a standing ovation, IACP spokeswoman Sarah Guy said. Cunningham made the remarks on behalf of the membership, Guy said.

Cunningham's comments came a day after FBI Director James Comey said that Americans "actually have no idea whether the number of black people or brown people or white people being shot by police" has gone up or down, or if any group is more likely to be shot by police, given the incomplete data available. Also speaking to the IACP convention, Comey praised police officers for serving during "a uniquely difficult time" and that the narrative that police are overusing force based on isolated incidents may be exaggerated. The Justice

Department has never collected comprehensive data on police shootings or use of force, though it announced a plan to do so last week.

FBI director: We really have no idea if there's an epidemic of police violence against black people

However, in 2015 Comey gave a speech at Georgetown University

on law enforcement and race on. His points were similar to Cunningham's. "First,"

Comey said, "all of us in law enforcement must be honest enough to acknowledge that much of our history is not pretty. At many points in American history, law enforcement enforced the status quo, a status quo that was often brutally unfair to disfavored groups."

Comey also noted: "We—especially those of us who enjoy the privilege that comes with being the majority—must confront the biases that are inescapable parts of the human condition. We must speak the truth about our shortcomings as law enforcement, and fight to be better. But as a country, we must also speak the truth to ourselves. Law enforcement is not the root cause of problems in our hardest hit neighborhoods. Police officers—people of enormous courage and integrity, in the main—are in those neighborhoods, risking their lives, to protect folks from offenders who are the product of problems that will not be solved by body cameras. We simply must speak to each other honestly about all these hard truths."

Here is the full text of Cunningham's remarks Monday:

I would like to take a moment to address a significant and fundamental issue confronting our profession, particularly within the United States. Clearly, this is a challenging time for policing. Events over the past several years have caused many to question the actions of our officers and has tragically undermined the trust that the public must and should have in their police departments. At times such as this, it is our role as leaders to assess the situation and take the steps necessary to move forward.

This morning, I would like to address one issue that I believe will help both our profession and our communities. The history of the law enforcement profession is replete with examples of bravery, self-sacrifice, and service to the community. At its core, policing is a noble profession made up of women and

men who have sworn to place themselves between the innocent and those who seek to do them harm.

Over the years, thousands of police officers have laid down their lives for their fellow citizens while hundreds of thousands more have been injured while protecting their communities. The nation owes all of those officers, as well as those who are still on patrol today, an enormous debt of gratitude.

At the same time, it is also clear that the history of policing has also had darker periods.

There have been times when law enforcement officers, because of the laws enacted by federal, state, and local governments, have been the face of oppression for far too many of our fellow citizens. In the past, the laws adopted by our society have required police officers to perform many unpalatable tasks, such as ensuring legalized discrimination or even denying the basic rights of citizenship to many of our fellow Americans.

While this is no longer the case, this dark side of our shared history has created a multigenerational—almost inherited—mistrust between many communities of color and their law enforcement agencies.

Many officers who do not share this common heritage often struggle to comprehend the reasons behind this historic mistrust. As a result, they are often unable to bridge this gap and connect with some segments of their communities.

While we obviously cannot change the past, it is clear that we must change the future. We must move forward together to build a shared understanding. We must forge a path that allows us to move beyond our history and identify common solutions to better protect our communities.

For our part, the first step in this process is for law enforcement and the IACP to acknowledge and apologize for the actions of the past and the role that our profession has played in society's historical mistreatment of communities of color.

At the same time, those who denounce the police must also acknowledge that today's officers are not to blame for the injustices of the past. If either side in this debate fails to acknowledge these fundamental truths, we will be unlikely to move past them.

Overcoming this historic mistrust requires that we must move forward together in an atmosphere of mutual respect. All members of our society must realize that we have a mutual obligation to work together to ensure fairness, dignity, security, and justice.

It is my hope that, by working together, we can break this historic cycle of mistrust and build a better and safer future for us all.

From: J Rybicki

Sent: Monday, October 17, 2016 3:00 PM
To: Rybicki, James E. (DO) (FBI)

U.S. police chiefs group apologizes for 'historical mistreatment' of minorities

By Tom Jackman, October 17 at 7,76 PM

Terrence M. Cunningham, president of the international Association of Chiefs of Police and chief of the Wellesley, Mass., police. On Monday he offered an apology for historic mistreatment of minorities by police. (IACP)

The president of America's largest police organization on Monday issued a formal apology to the nation's minority population "for the actions of the past and the role that our profession has played in society's historical mistreatment of communities of color."

Terrence M. Cunningham, the chief of police in Wellesley, Mass., delivered his remarks at the convention in San Diego of the International Association of Chiefs of Police, whose membership comprises 18,000 police chiefs from around the world. The statement was issued on behalf of the IACP, and comes as police executives continue to grapple with tense relationships between officers and minority groups in the wake of high-profile civilian deaths in New York, South Carolina, Minnesota and elsewhere, the sometimes violent citizen protests which have ensued as well as the ambush killings of officers in Dallas and Baton Rouge.

Top police chiefs have long recognized the need to maintain good relations with their communities, of all races, and not allow an us-versus-them mentality to take root, either in their rank-and-file officer corps or in the neighborhoods where their citizens live. Cunningham's comments are an acknowledgement of police departments' past role in exacerbating tensions and a way to move forward and improve community relations nationwide.

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"Events over the past several years," Cunningham said, "have caused many to question the actions of our officers and has tragically undermined the trust that the public must and should have in their police departments...The history of the law enforcement profession is replete with examples of bravery, self-sacrifice,

and service to the community. At its core, policing is a noble profession."

But Cunningham added, "At the same time, it is also clear that the history of policing has also had darker periods." He cited laws enacted by state and federal governments which "have required police officers to perform many unpalatable tasks...While this is no longer the case, this dark side of our shared history has created a multigenerational — almost inherited — mistrust between many communities of color and their law enforcement agencies."

Cunningham continued, "While we obviously cannot change the past, it is clear that we must change the future...For our part, the first step is for law enforcement and the IACP to acknowledge and apologize for the actions of the past and the role that our profession has played in society's historical mistreatment of communities of color."

He concluded, "It is my hope that, by working together, we can break this historic cycle of mistrust and build a better and safer future for us all."

Jeffery Robinson, deputy legal director of the American Civil Liberties Union, applauded Cunningham's statement. "It seems to me that this is a very significant admission," Robinson said, "and a very significant acknowledgement of what much of America has known for some time about the historical relationship between police and communities of color. The fact someone high in the law enforcement community has said this is significant and I applaud it because it is long overdue. And I think it's a necessary first step to them trying to change these relationships."

After his comments, Cunningham told The Post in an e-mail that, "We have 16,000 police chiefs and law enforcement officials gathered here in San Diego and it is an important message to spread. Communities and law enforcement need to begin a healing process and this is a bridge to begin that dialogue. If we are brave enough to collectively deliver this message, we will build a better and safer future for our communities and our law enforcement officers. Too many lives have been lost already, and this must end. It is my hope that many other law enforcement executives will deliver this same message to their local communities, particularly those segments of their communities that lack trust and feel disenfranchised."

The IACP members present for Cunningham's speech gave him a standing ovation, IACP spokeswoman Sarah Guy said. Cunningham made the remarks on behalf of the membership, Guy said.

Cunningham's comments came a day after FBI Director James Comey said that Americans "actually have no idea whether the number of black people or brown people or white people being shot by police" has gone up or down, or if any group is more likely to be shot by police, given the incomplete data available. Also speaking to the IACP convention, Comey praised police officers for serving during "a uniquely difficult time" and that the narrative that police are overusing force based on isolated incidents may be exaggerated. The Justice

Department has never collected comprehensive data on police shootings or use of force, though it

announced a plan to do so last week.

FBI director: We really have no idea if there's an epidemic of police violence against black people

However, in 2015 Comey gave a speech at Georgetown University on law enforcement and race on . His points were similar to Cunningham's. "First," Comey said, "all of us in law enforcement must be honest enough to acknowledge that much of our history is not pretty. At many points in American history, law enforcement enforced the status quo, a status quo that was often brutally unfair to disfavored groups."

Comey also noted: "We—especially those of us who enjoy the privilege that comes with being the majority—must confront the biases that are inescapable parts of the human condition. We must speak the truth about our shortcomings as law enforcement, and fight to be better. But as a country, we must also speak the truth to ourselves. Law enforcement is not the root cause of problems in our hardest hit neighborhoods. Police officers—people of enormous courage and integrity, in the main—are in those neighborhoods, risking their lives, to protect folks from offenders who are the product of problems that will not be solved by body cameras. We simply must speak to each other honestly about all these hard truths."

Here is the full text of Cunningham's remarks Monday:

I would like to take a moment to address a significant and fundamental issue confronting our profession, particularly within the United States. Clearly, this is a challenging time for policing. Events over the past several years have caused many to question the actions of our officers and has tragically undermined the trust that the public must and should have in their police departments. At times such as this, it is our role as leaders to assess the situation and take the steps necessary to move forward.

This morning, I would like to address one issue that I believe will help both our profession and our communities. The history of the law enforcement profession is replete with examples of bravery, self-sacrifice, and service to the community. At its core, policing is a noble profession made up of women and

men who have sworn to place themselves between the innocent and those who seek to do them harm.

Over the years, thousands of police officers have laid down their lives for their fellow citizens while hundreds of thousands more have been injured while protecting their communities. The nation owes all of those officers, as well as those who are still on patrol today, an enormous debt of gratitude.

At the same time, it is also clear that the history of policing has also had darker periods.

There have been times when law enforcement officers, because of the laws enacted by federal, state, and local governments, have been the face of oppression for far too many of our fellow citizens. In the past, the laws adopted by our society have required police officers to perform many unpalatable tasks, such as ensuring legalized discrimination or even denying the basic rights of citizenship to many of our fellow Americans.

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At the same time, those who denounce the police must also acknowledge that today's officers are not to blame for the injustices of the past. If either side in this debate fails to acknowledge these fundamental truths, we will be unlikely to move past them.

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It is my hope that, by working together, we can break this historic cycle of mistrust and build a better and safer future for us all.

From: J Rybicki

Sent: Saturday, October 29, 2016 8:47 PM

To: Rybicki, James E. (DO) (FBI)

Subject: Fwd: News Alert: Justice Dept. warned FBI that director's decision to update

Congress on Clinton emails was not consistent with policy

----- Forwarded message ------

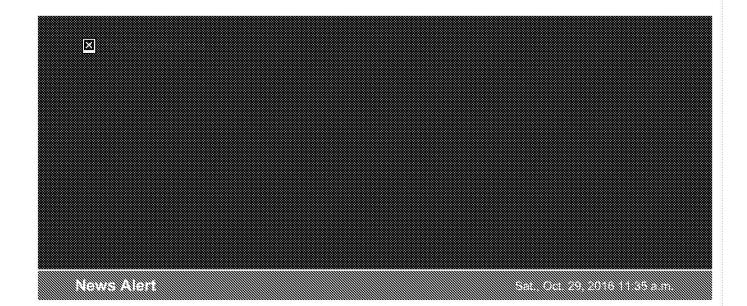
From: The Washington Post <email@e.washingtonpost.com>

Date: Sat, Oct 29, 2016 at 11:36 AM

Subject: News Alert: Justice Dept. warned FBI that director's decision to update Congress on Clinton

emails was not consistent with policy

То: b6 -1



Justice Dept. warned FBI that director's decision to update Congress on Clinton emails was not consistent with policy

FBI Director James Comey told Justice officials that he intended to inform lawmakers of newly discovered emails. These officials told him the department's position is "that we don't comment on an ongoing investigation. And we don't take steps that will be viewed as influencing an election," said one Justice official who spoke on the condition of anonymity to describe the high-level conversations.

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From: J Rybicki

Sent: Saturday, October 29, 2016 8:54 PM

To: Rybicki, James E. (DO) (FBI)

https://www.lawfareblog.com/james-comey-hillary-clinton-and-email-investigation-guide-perplexed

James Comey, Hillary Clinton, and the Email Investigation: A Guide for the Perplexed

By Jack Goldsmith, Benjamin Wittes

Saturday, October 29, 2016, 2:49 PM

Yesterday, FBI Director James Comey threw the presidential election campaign into turmoil with a letter to Congress declaring that the Clinton email matter was, perhaps, not entirely done after all.

Ben analyzed this disclosure yesterday, and a great deal of digital ink has been spilled both blasting Comey's decision and trying to figure out what it means.

The Clinton forces are furious, with the candidate declaring that "we are 11 days out from perhaps the most important national election of our lifetimes, voting is already underway in our country, so the American people deserve to get the full and complete facts immediately," and campaign chairman John Podesta saying, "It is extraordinary that we would see something like this just 11 days out from a presidential election."

The Trump forces, meanwhile, are triumphant, with Trump—who only recently was calling the FBI corrupt—saying, "I have great respect for the fact that the FBI and the Department of Justice are now willing to have the courage to right the horrible mistake that they made. This was a grave miscarriage of justice that the American people fully understood, and it is everybody 's hope that it is about to be corrected." The chant from Trump's crowd yesterday: "Lock Her Up!"

Below are eighteen questions on the subject of the campaign, the email investigation, and the actions taken by Comey and the FBI, along with our views as to the answers.

Full disclosure: We know Director Comey personally and one of us has worked with him in prior government service. Of course, we are writing this on our own behalf, not his, and stating only

our own views of these matters.

We are also writing it based on the information we have as of 2:30 pm on Saturday afternoon. Our views may change as further facts emerge.

1) What was Comey's original non-prosecution decision this summer?

On July 5, Comey held a press conference concerning "the FBI's investigation of Secretary Clinton's use of a personal e-mail system during her time as Secretary of State." Comey stated that "[a]fter a tremendous amount of work over the last year, the FBI is completing its investigation and referring the case to the Department of Justice for a prosecutive decision." Comey also announced the FBI's prosecution recommendation to the Department of Justice. He acknowledged that Hillary Clinton and her State Department colleagues had been "extremely careless in their handling of very sensitive, highly classified information." But he concluded that "[a]lthough there is evidence of potential violations of the statutes regarding the handling of classified information, our judgment is that no reasonable prosecutor would bring such a case."

He further explained:

Prosecutors necessarily weigh a number of factors before bringing charges. There are obvious considerations, like the strength of the evidence, especially regarding intent. Responsible decisions also consider the context of a person's actions, and how similar situations have been handled in the past.

In looking back at our investigations into mishandling or removal of classified information, we cannot find a case that would support bringing criminal charges on these facts. All the cases prosecuted involved some combination of: clearly intentional and willful mishandling of classified information; or vast quantities of materials exposed in such a way as to support an inference of intentional misconduct; or indications of disloyalty to the United States; or efforts to obstruct justice. We do not see those things here.

2) What was the impact of Comey's recommendation?

As Comey acknowledged in his press conference, the final call about prosecution rests with the Attorney General. But as a practical matter, Comey's decision put an end to the issue. It is inconceivable that an Attorney General would go forward with a prosecution in such a high-profile case after the FBI Director, after a thorough investigation, publicly concluded that such a prosecution would be unreasonable.

And indeed, within a week, Attorney General Lynch announced that the Department would not prosecute anyone in the matter.

3) Was Comey's recommendation of non-prosecution reasonable?

There is much debate in this question, but in our view, and without getting too much into the weeds, the answer is that Comey's judgment was reasonable.

Comey acknowledged "there is evidence of potential violations of the statutes regarding the handling of classified information." But as he also noted, correctly, that prosecutors weigh

a "number of factors before bringing charges," including "the strength of the evidence, especially regarding intent," as well "the context of a person's actions, and how similar situations have been handled in the past."

One of us previously explained and defended Comey's decision as follows:

Some argue that prosecution was warranted because not all of the relevant laws require intent (an important potentially applicable one, 18 USC 793(f), requires only "gross negligence"), and because the government needs to send a strong signal to protect the integrity of the classified information system. I do not view this as an unreasonable position, at least based on the information Comey provided yesterday. On the other hand, there are many hurdles to a successful prosecution even assuming the "gross negligence" standard is the right one here. The prosecution would be entirely novel, and would turn in part on very tricky questions about how email exchanges fit into language written with physical removal of classified information in mind. Though he did not say so explicitly, Comey might have concluded that a conviction in this context was, for many reasons, unlikely—a clear reason not to prosecute. He probably also considered broader public policy considerations that prosecutors often take into account—considerations that cut in many different directions, to be sure. It's unclear whether Comey was right to say that "no reasonable prosecutor" would bring a case against Clinton—it is just hard to say, one way or another, based on the information he provided yesterday. But Comey explained the general basis for his decision and took full responsibility for it.

Another of us described it as follows:

[I]t's very clearly not the sort of thing the Justice Department prosecutes either. For the last several months, people have been asking me what I thought the chances of an indictment were. I have said each time that there is no chance without evidence of bad faith action of some kind. People simply don't get indicted for accidental, non-malicious mishandling of classified material. I have followed leak cases for a very long time, both at the Washington Post and since starting Lawfare. I have never seen a criminal matter proceed without even an allegation of something more than mere mishandling of senstive information. Hillary Clinton is not above the law, but to indict her on these facts, she'd have to be significantly below the law. Comey's recommendation in this regard is unambiguous: "our judgment is that no reasonable prosecutor would bring such a case."

His reasoning, at least in my judgment, is clearly correct.

These analyses are different, but they both point in the same direction: Comey's judgment was, if not obviously correct, certainly reasonable.

4) Was it unusual for Comey to announce his recommendation in public and explain his rationale?

Yes—highly unusual.

5) Why did he do it, and was he justified in doing it?

Comey answered this question in part in his press conference. He stated at the outset that

Justice Department and the rest of the government "do not know what I am about to say." And he later explained: "In this case, given the importance of the matter, I think unusual transparency is in order."

There were surely other reasons for Comey's "unusual transparency" that he did not mention. Primarily, the public perceptions that the independent judgment of Comey's superiors, the President and the Attorney General, was tainted on the matter.

In October 2015, President Obama stated that Clinton's personal email server "is not a situation in which America's national security was endangered," and the following April, a few months before Comey's press conference, Obama said of the Clinton email controversy that Clinton "would never intentionally put America in any kind of jeopardy." Both of these statements gave the appearance to many observers that the President had prejudged legally relevant aspects of the investigation. And, of course, Clinton is also the nominee of the President's own party.

To make matters worse, Attorney General Lynch was compromised not just by these statements by the President, but much more so by Bill Clinton's controversial private visit on her airplane on the Phoenix tarmac; by the Clinton camp floating the possibility, a few weeks before Comey's press conference, that she would consider keeping Lynch as her Attorney General; and by Lynch's own unclear statements the weekend before Comey's press conference about her role in the final decision to prosecute.

In short, Comey's superiors were compromised in a fashion that threatened to taint the investigative conclusions, including his independent recommendation not to prosecute. This taint around the Clinton investigation was the original set of factors that hemmed Comey in from the beginning.

In this highly unusual circumstance—a circumstance made more unusual by the fact that the central focus of the investigation was the Democratic nominee for the presidency—we believe Comey was justified in announcing his recommendation and reasons for non-prosecution in public. Comey's unusual action was the least bad option he had for preserving the integrity and independence of his investigation and recommendation. As one of us wrote at the time, if Comey had simply offered his recommendation to Lynch in private,

the ultimate judgment not to prosecute would be mired in much thicker political muck than the inevitable muck it is now in. By making his final recommendations known to the public before telling the Attorney General, and by issuing a devastating critique of Clinton's behavior even as he was recommending non-prosecution, Comey sent a signal of maximum FBI independence that at the same time lessened the sting of the many potential conflicts of interest lurking outside the FBI even as it placed much more responsibility (and criticism) for the decision on him.

Comey took on unusual responsibility and criticism for the non-prosecution decision "in exchange for attenuating the conflict of interest charges that would have swirled much more violently if he had not publicly announced his views in advance of the Justice Department's

ultimate decision."

That was a reasonable trade under the circumstances.

6) Was Comey shilling for Clinton when he made his non-prosecution decision?

No. Comey's call here certainly infuriated a lot of conservatives. Rudy Giuliani called it "mind boggling," suggesting that Comey put "himself and Mrs. Clinton above the law." And within a few days of Comey's announcement, Rush Limbaugh wasted no time before speculating about coordination between Obama, Comey and the Clinton campaign.

But there is no reason to doubt that Comey made his call on the merits as he saw them. For one thing, Comey in his press conference was very critical of the behavior of Clinton and her team, which he described as "extremely careless in their handling of very sensitive, highly classified information." Comey also stated that "in similar circumstances" to Clinton's, "individuals are often subject to security or administrative sanctions." Here Comey was claiming that Clinton's behavior would normally result in demotion, firing, or disqualification to receive classified information—a very serious charge against a possible future President and boss, and not one a shill would make.

Also, Comey's recommendation reflected the unanimous judgment of the career investigative team.

And what's more, a redacted version of the FBI's memorandum of its interview with Clinton is now public. Comey has publicly explained his team's process and reasons for decision. There is no basis whatsoever to question the integrity of the FBI's decisionmaking and investigation, and Trump and congressional Republicans have been reckless in suggesting otherwise.

7) Was Comey shilling for Republicans when he critically described Clinton's conduct?

Obviously not. It was highly unusual for Comey to describe Clinton's behavior in the critical terms described above. But at least as far as the decision and initial press conference are concerned, we believe that, in this highly unusual circumstance, Comey's decision was defensible. The need to make clear, with compromised judgment all around him, that he was not minimizing the gravity of the situation and that his investigation and judgment were independent was a compelling one.

8) Was it right for Comey subsequently testify before Congress about his decision?

This is a more complicated question, and one on which Comey's approach seems to us more open to question. Back in July, one of us wrote the following:

I think it's important to stress that this is really not the way we want major investigations to be closed out in the future.

There is something horrible about watching a senior government official, who has used the coercive investigative capacities of the federal government, make public judgments about a subject's conduct which the Justice Department is not prepared to indict. There is something even more horrible about a hearing in which individual members of Congress feel entitled to

pick over the details of that conduct, asking about whether specific questions were asked by the FBI of specific witnesses and subjects and asking whether specific lines of inquiry were followed.

As a general matter, when prosecutors and investigators decline to indict someone, we don't want a report, much less congressional oversight of the unindicted conduct. We want them to shut the heck up.

This point is rooted in important civil liberties concerns. We don't give the FBI the power to investigate people so that it can report on their characters or behavior, so that the FBI director can pronounce on the truthfulness of their public utterances (which Comey endeavored not to do and yet inevitably did repeatedly simply by reporting his findings). And we don't give congressional committees the power of oversight, generally speaking, so that they can review individual prosecutorial decisions by flyspecking the details of the conduct of particular investigations vis a vis individual subjects. We give the FBI these powers so that it can investigate crimes. And if the Justice Department is not going to prosecute someone, it generally has no business talking about the conduct of that person's affairs.

In retrospect, Comey probably erred in testifying about his decision. In his initial public statement, he had total control over what he said. In his subsequent live testimony, however, members drew a great deal more out of him. It was a mistake to let them do so.

9) Should Comey have publicly released so many documents about the investigation?

Comey compounded that mistake, in our view, by allowing so many of the underlying documents in the investigation to become public. Perhaps some of those documents, such as the redacted version of the FBI's recommendation memo, should have been released. But the flood of material about Clinton and her emails created an expectation that everything the FBI did would be discussed in public. That expectation proved fateful this week when Comey felt obliged to bring Congress and the public up to speed on changed circumstances from when he testified under oath.

10) What is the relationship between the Anthony Weiner sexting investigation and the email investigation?

The answer to this question is not entirely clear, but based on press reports, it appears that the FBI—in the course of investigating allegations of Weiner's exchanging sexually explicit messages with a minor—seized some electronic devices of his that also contained emails belonging to his estranged wife, longtime Clinton aide Huma Abedin. These new emails, for one reason or another, complicate the conclusions of the preexisting email investigation, if only by adding a great deal of new material that has to be processed. So on Thursday, Comey authorized a review of these materials to determine whether they are relevant to the email investigation, whether they are merely duplicates of previously reviewed emails, and whether anything in them is classified.

11) What did Comey do or say yesterday?

Comey yesterday informed Congress in his letter that he had taken this step. His rationale for the letter was that he had previously testified that the matter was "completed" but that he had now authorized additional "appropriate investigative steps" to "review" these new emails. He added that he could not assess yet whether the material was "significant" but said the emails "appear to be pertinent" to the investigation.

In a subsequent email to FBI staff, he amplified a bit:

Of course, we don't ordinarily tell Congress about ongoing investigations, but here I feel an obligation to do so given that I testified repeatedly in recent months that our investigation was completed. I also think it would be misleading to the American people were we not to supplement the record. At the same time, however, given that we don't know the significance of this newly discovered collection of emails, I don't want to create a misleading impression. In trying to strike that balance, in a brief letter and in the middle of an election season, there is significant risk of being misunderstood...

12) Is Comey a political hack shilling for Trump?

Certainly not. Just as it was inappropriate for Trump and many Republicans to accuse the FBI of corruption for not recommending that the Justice Department bring a case in July, the suggestion today that Comey is motivated by a desire to help a political candidate is silly. To the contrary, Comey's motivation is almost certainly to avoid helping a candidate. We think it obvious that Comey had to authorize additional investigation after learning about the Weiner emails. Whether he should have done so before the election or announced that the fact of doing so publicly before the election, and whether he should have done so the way he did, are different questions.

On the public announcement, Comey was driven by at least two imperatives. The first and stated imperative was to correct his prior testimony about the investigation being completed in light of the new information in the Weiner emails. A second and unstated imperative was almost certainly to avoid the controversy and taint that would have swirled if he had not disclosed the Weiner information and it had leaked out before the election or become public after the election. This second imperative is a matter of protecting the integrity and public trust of the institution he heads, the FBI.

As former acting director and deputy director of the CIA John McLaughlin noted today, "if the FBI took time to make that determination and said nothing publicly until after the election, it would be accused of playing politics—the worst charge you can level against organizations like the FBI or CIA." Putting the point another way, the Weiner email connection to Clinton was necessarily going to have an impact on the election—either before the election, through Comey's statement or a leak, or after the election, when the information came out and would certainly cause many to believe that the government had held back information relevant to the election.

Far more questionable was the way Comey made the announcement. On its face the letter to Congress made no criticism of Clinton and did not suggest that any new evidence pointed to

wrongdoing. But as the internal FBI letter made plain, Comey was well aware that the letter, coming less than two week before the election, would spark controversy. He attempted to minimize that by being as concise as possible, but the vagueness may have instead made the speculation worse. If he did not "want to create a misleading impression," Comey could have taken greater steps in his letter to Congress to explain that he did not want to create a misimpression and to make clear the unreviewed nature of the new information.

We surmise that Comey did not say more because he did not want to prejudge what he might find in the emails. As McLaughlin correctly noted, "email-based investigations are notoriously difficult and unpredictable ... because of the way email travels and bounces among recipients, with relevant messages often buried in correspondence between or among people not directly involved but possibly cc'd for some unrelated reason. Unlike written correspondence, email chains often form a labyrinth that is difficult to map. It's hard to get to the bottom."

Still, we believe that Comey could have predicted the dramatic reaction to his letter and taken better steps to preempt that reaction. It is very hard to say precisely what Comey should have said because we do not know what he knows about the extent to which the new information affects Clinton. It is possible, based on his knowledge, that he could not have said much more without being misleading. But it is also possible that he could have written a better letter—more like the internal letter, which predictably leaked out—in order to have a less dramatic impact on the election.

But while we are in this sense critical of Comey's letter, two points warrant emphasis: The Weiner emails would necessarily impact the election, either before or after November 8; and there is zero reason to think that Comey did this in order to injure Clinton's electoral chances or to advantage Trump in his candidacy against her. It is plausible, even likely, that had Comey not made some kind of statement, the information would have leaked in a manner far more harmful to Clinton.

13) Did Comey reopen the email investigation?

Not really. For one thing, while Comey described the investigation as "completed," it appears that the FBI never formally closed it.

Moreover, the language Comey used in his letter suggests something less than a full reinvigoration of the investigation. He described what he had authorized as "review" of the new emails. This suggests something more like a preliminary inquiry to figure out what, if any, aspects of the earlier investigative conclusions might require revisiting.

The best way to understand what Comey authorized is to imagine that a large dumptruck full of possibly relevant material unloaded itself in front of the Hoover Building. So Comey authorized agents to go through the pile and figure out whether it has implications for what they determined last summer.

14) Does the letter mean the FBI has found something explosive and seriously incriminating about Clinton?

No. A lot of commentators, particularly on the conservative side, are assuming that these

emails must contain something really big for Comey to have acted as he did. We think that misreads the situation.

The more likely scenario, in our view, is that Comey's actions simply reflect the volume of new material and the consequent uncertainty as to what it might mean. The New York Times reports, citing a senior law enforcement official, that we are dealing with tens of thousands of emails. That means the Bureau will have to figure out how many are duplicative of emails they've already looked at, how many are potentially relevant to an investigation limited to the mishandling of classified information, and whether any at all contain classified information. And as noted above, email investigations are extremely complex.

15) Did Comey breach law enforcement norms by sending yesterday's letter? Yes.

For starters, the Justice Department is very cautious about taking major actions in politically loaded cases in the immediate run-up to an election and has policies expressly limiting this kind of activity. This caution exists because our political culture doesn't want the FBI to influence elections by opening or conducting investigations in a fashion prejudicial to one of the candidates. A 2012 memorandum from Attorney General Eric Holder to all Justice Department employees articulating this policy says that "If you are faced with a question regarding the timing of charges or overt investigative steps near the time of a primary or general election, please contact the Public Integrity Section of the Criminal Division for further guidance." While the Public Integrity Section declined to comment on whether Comey followed these guidelines common sense suggests that Comey, by consulting with Deputy Attorney General Sally Yates and the attorney general herself, did something more than consult with Public Integrity. And it's not clear that the steps he has taken (authorizing a review of emails) count as "overt investigative steps" anyway, though the letter to Congress might.

That said, this is a case in point of why this policy exists.

Here Comey opened a new set of questions about one of the major party candidates with 11 days to go in the campaign—questions he has all but said he can't answer yet. Doing so offers an open-ended opportunity for Clinton's opponents to make inferences about her conduct. And Trump has done exactly that, saying yesterday "they are reopening the case into her criminal and illegal conduct that threatens the security of the United States of America. Hillary Clinton's corruption is on a scale that we have never seen before."

More generally, as discussed above, Comey's willingness to talk about his investigative findings is itself atypical—and generally frowned upon.

Notably, the attorney general and Yates appear to have cautioned against what Comey did. Prior to his announcement, the attorney general allegedly "expressed her preference" that Comey follow the Department of Justice's practice, described above, and not comment. Despite her advice, at least one administration official has said that Comey felt "obliged" to inform congress because he had promised to do so if there were developments in the case.

In a blistering Washington Post op-ed, former DOJ spokesman Matthew Miller goes after

Comey for the sequence of public statements and disclosures that culminated in yesterday's letter:

Comey's original sin came in July, when he held a high-profile news conference to announce his recommendation that the Justice Department bring no charges against Hillary Clinton. In doing so, Comey violated Justice rules about discussing ongoing cases and, as I argued at the time, made assertions that exceeded FBI authority, recklessly speculated about matters for which there was no evidence, and upended the consultative process that should exist between investigators and prosecutors.

Comey argued that his news conference was necessary in a case of intense public interest, but as his actions in the months since have shown, the precedent he set has led only to increasingly problematic outcomes.

First, because Comey had already publicly discussed the investigation, he felt free to answer detailed questions about it before a congressional panel two days later. Comey's description of not just the FBI's legal reasoning but also the underlying facts of the case only provided more ammunition to critics on both sides. Notably, when Comey's titular boss, Attorney General Loretta E. Lynch, appeared before a congressional panel later that month, she declined to follow his lead, citing Justice practices prohibiting her from doing so.

Then Comey decided to turn over the FBI's investigative file to Congress, refusing to even consult with the State Department over what information should be redacted. When that wasn't enough to satisfy critics, he publicly released the information in dribs and drabs that fueled repeated news cycles in the midst of the campaign.

With each step, Comey moved further away from department guidelines and precedents, culminating in Friday's letter to Congress. This letter not only violated Justice rules on commenting on ongoing investigations but also flew in the face of years of precedent about how to handle sensitive cases as Election Day nears.

Miller is being unduly harsh here, but he's not wrong that Comey is on a slippery slope of sorts, in which each disclosure necessitates the next disclosure and draws the FBI further and further away from Justice Department norms designed to keep law enforcement out of election campaigns.

Having said all that, it's not clear what realistic alternative Comey might have had. Imagine for a moment that the Bureau had sat on this until after the election and it then emerged that (a) the FBI had additional emails, (b) that Comey knew it had additional emails, (c) that having testified that the investigation was completed he (d) he did not authorize additional review or he did so but did not notify Congress that his earlier statements had proven incorrect. It would be a major major scandal, particularly if one or more of those emails fundamentally undermined his earlier investigative judgments.

16) Should Comey, having said what he said yesterday, now say more?

The Clinton forces are calling on the FBI to immediately release "the full details of what he is now examining." This almost certainly cannot happen, both for investigative reasons and for

reasons related to the privacy rights of the presumably inordinate number of third parties who were likely exchanging emails with Abedin. Unlike the Russian government, the FBI does not just do document dumps of people's emails.

That said, if there is more that Comey can say, he should probably do so—even at the risk of sliding further down the slippery slope he is on. Specifically, assuming the following statements are true, it would be worth Comey's saying them publicly:

- The FBI has come into possession of a large trove of additional emails that have to be reviewed.
 To say that something has to be reviewed does not mean it contains anything implicating anyone of anything. It means only that the material has to be reviewed.
- As I stated in my original letter, the reason I sent the letter was to inform Congress of a
 development that required me to revise my statement to Congress about the investigation's
 being complete.
- Nobody should draw any conclusions about anyone's conduct based on the fact that the FBI is reviewing these emails.
- Nobody should draw the conclusion that anyone sent or received additional classified material
 or that any material undermines the FBI's prior investigative conclusions based on the fact that
 the FBI is reviewing these emails.
- The fact that the FBI is reviewing new emails means only that the FBI is reviewing new emails, nothing more.

17) Does this episode show that the FBI is political?

Whatever else you think of Comey's judgment—and we are critical of some aspects of his handling of this matter—it is impossible to conclude from the course of events since July that he was motivated to help one side or to influence the election.

This is apparent in the head-snapping judgments from both sides about his integrity, a matter captured amusingly in this tweet by Fourth Amendment scholar Orin Kerr:

Comey has throughout appeared motivated by the desire, in the face of many appearances of conflicts of interest by his superiors, to ensure that his investigation cannot be viewed as tainted. Comey may not in, the difficult circumstances he found himself in, have executed that imperative with perfect judgment, a judgment that has upset different people at various times. His failure to keep the Bureau out of the election cycle is rooted not in politics, but in a desire to be transparent and open and not let anyone say he failed to ventilate matters before voters went to the polls.

18) Should Hillary Clinton be happy or angry about what Comey did? That depends on the outcome of the election.

If Clinton wins, Comey's controversial pre-election step will have saved her from the charge that the election was tainted because the FBI did not reveal the Weiner letters before the election. If she becomes president, and regardless of whether the Weiner emails prove embarrassing to her or worse, she should be grateful for the pain now, for it will have precluded a lot more pain later.

If Clinton loses, she will obviously, and probably correctly, blame Comey. And, justifiably or not, he will have a great deal to answer for. For this reason, we suspect (though we certainly don't know) that Comey may be secretly rooting for Clinton to win, even though such a victory will certainly lead to many awkward moments as he continues to serve as FBI Director and continues the investigation of his new boss.

Topics: Campaign 2016

Tags: Hillary Clinton, James Comey

From: J Rybicki

Sent: Friday, November 18, 2016 2:24 PM

To: Rybicki, James E. (DO) (FBI)

 $\frac{https://www.buzzfeed.com/ishmaeldaro/fbi-director-james-comey-lawn-sign-trump-debunk?}{utm_term=.skqx6mBzNp\#.uwaKygDadz}$

From: J Rybicki

Sent: Wednesday, November 30, 2016 9:55 PM

To: Rybicki, James E. (DO) (FBI)

Limited Scares Senate

November 29, 2616

The Princent The World Howe 1400 Fearly-banks Science, NW Washington, DC 20390

Desir Mr. Providenti

We havious these is additional information rendering the Konstan Operations and the U.S. election that should be declarated and released in the public. We are non-cying specifies through sheatifled channels.

Thank you for your attention to this important matter

Sincerety.

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Ra. bara & Mika W

Samack a. Sikatski



United States Senate

November 29, 2016

The President The White House 1600 Pennsylvania Avenue, NW Washington, DC 20500

Dear Mr. President:

We believe there is additional information concerning the Russian Government and the U.S. election that should be declassified and released to the public. We are conveying specifics through classified channels.

Thank you for your attention to this important matter.

Sincerely,

Ron Wyden

Jack Reed

Mark R. Warner

Angus Kino

Mazie K. Eirono

Nartin/Heinrich

From: J Rybicki

Sent: Saturday, December 10, 2016 6:33 PM

To: Rybicki, James E. (DO) (FBI)

http://www.slate.com/blogs/the_slatest/2016/12/10/harry_reid_says_fbi_chief_comey_hid_information_non_russian_hacking_should.html

From: J Rybicki

Sent: Friday, December 23, 2016 4:22 PM

To: Rybicki, James E. (DO) (FBI)

Murphy purchased the engineering firm when problems developed with its

management

On January 2, 1963, CISA announced the approval of the FBI building sigand purchased the land at \$41.17 per square loot. The Fennsylvania Avenue Advisory Council (PAAC) revealed its grand design in April 1964. Hoove, disliked the design intensely. Legally, however, neither the FBI nor the DOJ had to approve the exterior design. A 1966 newspaper column suggestion that the proposed FBI building flooks somewhat like a fort. Hower wrote. "I agree the design is obnoxious. Five years later, the Society of Former Special Agents asked for pictures of the proposed building. Hoover responded, "OK, it looks like something from Mars." In1965, Hoover wrote. 'I wish we had never initiated this project. It has been a headache from the very beginning." When completed, the building cost \$126,108,000. \$106,000,000 more than the 1939 proposal. FBI 18-cv-1800-843

The building received its official name, The J. Edgar Hoover Building, in public law, 92-520, which President Richard Nixon signed May 4, 1972, two days after Hoover's death. President Gerald Ford dedicated the building on September 30, 1975

While the exterior of The J. Edgar Hoover Building remains as it was designed in the late 1960s, several features have been a substituted with contains a memorial to Hoover. A decorative for residence is another area

From: J Rybicki

Sent: Wednesday, January 04, 2017 8:39 PM

To: Rybicki, James E. (DO) (FBI)

http://thehill.com/policy/national-security/312767-fbi-never-examined-hacked-dnc-servers-report

From: J Rybicki

Sent: Saturday, January 14, 2017 7:16 PM

To: Rybicki, James E. (DO) (FBI)

 $\frac{\text{https://apnews.com/f770a40e45b04a7482eb88c09c1398f3/AP-Interview:-Lynch-says-US-must-hold-police-accountable?utm_campaign=SocialFlow&utm_source=Twitter&utm_medium=AP}{\text{https://apnews.com/f770a40e45b04a7482eb88c09c1398f3/AP-Interview:-Lynch-says-US-must-hold-police-accountable?utm_campaign=SocialFlow&utm_source=Twitter&utm_medium=AP}{\text{https://apnews.com/f770a40e45b04a7482eb88c09c1398f3/AP-Interview:-Lynch-says-US-must-hold-police-accountable?utm_campaign=SocialFlow&utm_source=Twitter&utm_medium=AP}{\text{https://apnews.com/f770a40e45b04a7482eb88c09c1398f3/AP-Interview:-Lynch-says-US-must-hold-police-accountable?utm_campaign=SocialFlow&utm_source=Twitter&utm_medium=AP}{\text{https://apnews.com/f770a40e45b04a7482eb88c09c1398f3/AP-Interview:-Lynch-says-US-must-hold-police-accountable?utm_campaign=SocialFlow&utm_source=Twitter&utm_medium=AP}{\text{https://apnews.com/f770a40e45b04a7482eb88c09c1398f3/AP-Interview:-Lynch-says-US-must-hold-police-accountable?utm_campaign=SocialFlow&utm_source=Twitter&utm_medium=AP}{\text{https://apnews.com/f770a40e45b04a7482eb88c09c1398f3/AP-Interview:-Lynch-says-US-must-hold-police-accountable?utm_source=Twitter&utm_s$

The Justice Department opposed sending the letter, and Lynch said "the director was well aware of my views on it."

From: J Rybicki

Sent: Wednesday, January 18, 2017 7:32 PM

To: Rybicki, James E. (DO) (FBI)

From: J Rybicki

Sent: Saturday, January 28, 2017 11:46 AM

To: Rybicki, James E. (DO) (FBI)

http://wtop.com/dc/2017/01/dcs-surveillance-system-hit-hack-attack-inauguration/

Ј Куріскі			
From:	J Rybicki		
Sent:	Saturday, February 18, 2017 2:53 PM		
То:	Rybicki, James E. (DO) (FBI)		
Subject:	Fwd:		
Forwar	ded message		
From: J Rybicki	ded message		
Date: Sat, Feb 1	.8, 2017 at 2:52 PM b6 -1		
Subject:			
To: Jim Rybicki			

 $\underline{\text{http://www.cnn.com/2017/02/18/politics/devos-marshals-service-protection/index.html}}$

From:	J Rybicki		
Sent:	Tuesday, February 21, 2017 9:16 AM		
To:	Rybicki, James E. (DO) (FBI)	b7E -3	
Subject:	Fwd:		
Attachments:	FullSizeRender-36.jpg; Michael-Flyn Document1.docx	n-Resignation-Letter.pdf; IAR_16-20296.pdf;	
The state of the s	d message i mey <jcb.dir@ic.fbi.gov></jcb.dir@ic.fbi.gov>		
Date: Tue, Feb 21,			
Subject			
To: Jim Rybicki		b6 -1 b7E -3	
These were in the	boss' Didn't want to l	ose them so emailing them to you.	

Career Development/Leadership Discussions

Deputy Director	Monthly Brownbag Lunches		
Associate Deputy Director	Monthly Brownbag Lunches		
Executive Associate Directors	Quarterly Individual Meetings		
	Quarterly Group Offsites (2 ASAC and SC		
	Focused; 2 AD/SAC and Above Focused)		
Assistant Directors	Yearly 1 Hour Individual Meetings		
SACs/ADICs	Yearly 30 Minute Individual Meetings		
	to schedule when they are at HQ or do via lync)		
	Biannual SAC Conference		
Director's Office Staff	Monthly Brownbag Group Lunches		
DD/ADD/COS (Succession Planning)	Bimonthly Meetings		
Talent Czar	Bimonthly Meetings		

b6 -1

Program Check-ins

General Counsel	Monthly Brownbag Lunches
Hiring Update	Bimonthly Meetings
Budget Update	Monthly Meetings
CIO Update	Quarterly Meetings
OPR Update	Biannual Meetings

Reoccurring Engagements

Field Office Visits	Approximately 2 Per Month (each office every 3 years)		
International Visits	Approximately 2 Per Year		
HQ Walk Arounds	Each Division at least once per year		
Congressional Engagement	At Least 2 One-on-One Meetings at HQ Per Month		
Press Engagement	Quarterly Brownbag Lunches		
Quantico Graduations	Every BFTC and National Graduation		
National Academy	1 Hour Session with Each Class		
Honors Interns	Welcome, Panel with DD and ADD, and		
	Graduation		
Advisory Committees	TBD		

Blue = New





JOINT ANALYSIS REPORT

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Reference Number: JAR-16-20296 December 29, 2016

GRIZZLY STEPPE – Russian Malicious Cyber Activity

Summary

This Joint Analysis Report (JAR) is the result of analytic efforts between the Department of Homeland Security (DHS) and the Federal Bureau of Investigation (FBI). This document provides technical details regarding the tools and infrastructure used by the Russian civilian and military intelligence Services (RIS) to compromise and exploit networks and endpoints associated with the U.S. election, as well as a range of U.S. Government, political, and private sector entities. The U.S. Government is referring to this malicious cyber activity by RIS as GRIZZLY STEPPE.

Previous JARs have not attributed malicious cyber activity to specific countries or threat actors. However, public attribution of these activities to RIS is supported by technical indicators from the U.S. Intelligence Community, DHS, FBI, the private sector, and other entities. This determination expands upon the <u>Joint Statement</u> released October 7, 2016, from the Department of Homeland Security and the Director of National Intelligence on Election Security.

This activity by RIS is part of an ongoing campaign of cyber-enabled operations directed at the U.S. government and its citizens. These cyber operations have included spearphishing campaigns targeting government organizations, critical infrastructure entities, think tanks, universities, political organizations, and corporations leading to the theft of information. In foreign countries, RIS actors conducted damaging and/or disruptive cyber-attacks, including attacks on critical infrastructure networks. In some cases, RIS actors masqueraded as third parties, hiding behind false online personas designed to cause the victim to misattribute the source of the attack. This JAR provides technical indicators related to many of these operations, recommended mitigations, suggested actions to take in response to the indicators provided, and information on how to report such incidents to the U.S. Government.



Description

The U.S. Government confirms that two different RIS actors participated in the intrusion into a U.S. political party. The first actor group, known as Advanced Persistent Threat (APT) 29, entered into the party's systems in summer 2015, while the second, known as APT28, entered in spring 2016.

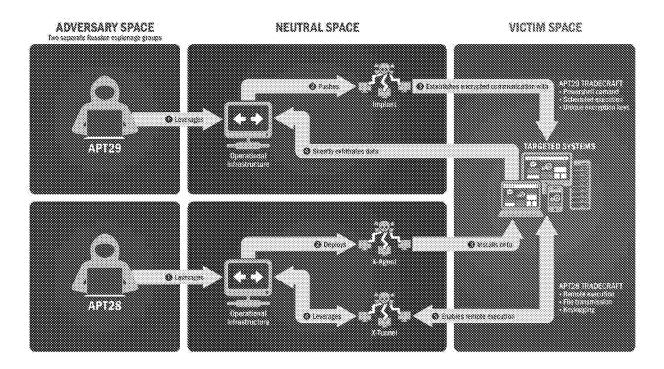


Figure 1: The tactics and techniques used by APT29 and APT 28 to conduct cyber intrusions against target systems

Both groups have historically targeted government organizations, think tanks, universities, and corporations around the world. APT29 has been observed crafting targeted spearphishing campaigns leveraging web links to a malicious dropper; once executed, the code delivers Remote Access Tools (RATs) and evades detection using a range of techniques. APT28 is known for leveraging domains that closely mimic those of targeted organizations and tricking potential victims into entering legitimate credentials. APT28 actors relied heavily on shortened URLs in their spearphishing email campaigns. Once APT28 and APT29 have access to victims, both groups exfiltrate and analyze information to gain intelligence value. These groups use this information to craft highly targeted spearphishing campaigns. These actors set up operational infrastructure to obfuscate their source infrastructure, host domains and malware for targeting organizations, establish command and control nodes, and harvest credentials and other valuable information from their targets.

In summer 2015, an APT29 spearphishing campaign directed emails containing a malicious link to over 1,000 recipients, including multiple U.S. Government victims. APT29 used legitimate



domains, to include domains associated with U.S. organizations and educational institutions, to host malware and send spearphishing emails. In the course of that campaign, APT29 successfully compromised a U.S. political party. At least one targeted individual activated links to malware hosted on operational infrastructure of opened attachments containing malware. APT29 delivered malware to the political party's systems, established persistence, escalated privileges, enumerated active directory accounts, and exfiltrated email from several accounts through encrypted connections back through operational infrastructure.

In spring 2016, APT28 compromised the same political party, again via targeted spearphishing. This time, the spearphishing email tricked recipients into changing their passwords through a fake webmail domain hosted on APT28 operational infrastructure. Using the harvested credentials, APT28 was able to gain access and steal content, likely leading to the exfiltration of information from multiple senior party members. The U.S. Government assesses that information was leaked to the press and publicly disclosed.

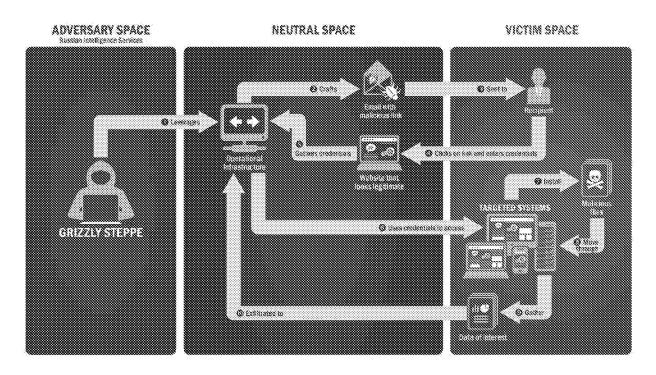


Figure 2: APT28's Use of Spearphishing and Stolen Credentials

Actors likely associated with RIS are continuing to engage in spearphishing campaigns, including one launched as recently as November 2016, just days after the U.S. election.

Reported Russian Military and Civilian Intelligence Services (RIS)

Reported Russian Military and Civilian Intelligence Services (RIS) Alternate Names
Alternate Names APT28
APT29
Agent.btz
BlackEnergy V3
BlackEnergy2 APT
CakeDuke
Carberp
CHOPSTICK
CloudDuke
CORESHELL
CosmicDuke
COZYBEAR
COZYCAR
COZYDUKE
CrouchingYeti
DIONIS
Dragonfly
Energetic Bear
EVILTOSS
Fancy Bear
GeminiDuke
GREY CLOUD
HammerDuke
HAMMERTOSS
Havex
MiniDionis
MiniDuke
OLDBAIT
OnionDuke
Operation Pawn Storm
PinchDuke
Powershell backdoor
Quedagh
Sandworm
SEADADDY
Seaduke
SEDKIT
SEDNIT
Skipper
Sofacy
SOURFACE
SYNful Knock
Tiny Baron
Tsar Team
twain_64.dll (64-bit X-Agent implant)
VmUpgradeHelper.exe (X-Tunnel implant)
Waterbug
X-Agent X-Agent
L V -



Technical Details

Indicators of Compromise (IOCs)

IOCs associated with RIS cyber actors are provided within the accompanying .csv and .stix files of JAR-16-20296.

```
Yara Signature
rule PAS TOOL PHP WEB KIT
meta:
description = "PAS TOOL PHP WEB KIT FOUND"
strings:
$php = "<?php"
$strreplace = "(str replace("
md5 = ".substr(md5(strrev("
$gzinflate = "gzinflate"
$cookie = " COOKIE"
$isset = "isset"
condition:
(filesize > 20KB and filesize < 22KB) and
#cookie == 2 and
#isset == 3 and
all of them
}
```

Actions to Take Using Indicators

DHS recommends that network administrators review the IP addresses, file hashes, and Yara signature provided and add the IPs to their watchlist to determine whether malicious activity has been observed within their organizations. The review of network perimeter netflow or firewall logs will assist in determining whether your network has experienced suspicious activity.

When reviewing network perimeter logs for the IP addresses, organizations may find numerous instances of these IPs attempting to connect to their systems. Upon reviewing the traffic from these IPs, some traffic may correspond to malicious activity, and some may correspond to legitimate activity. Some traffic that may appear legitimate is actually malicious, such as vulnerability scanning or browsing of legitimate public facing services (e.g., HTTP, HTTPS, FTP). Connections from these IPs may be performing vulnerability scans attempting to identify websites that are vulnerable to cross-site scripting (XSS) or Structured Query Language (SQL) injection attacks. If scanning identified vulnerable sites, attempts to exploit the vulnerabilities may be experienced.



Network administrators are encouraged to check their public-facing websites for the malicious file hashes. System owners are also advised to run the Yara signature on any system that is suspected to have been targeted by RIS actors.

Threats from IOCs

Malicious actors may use a variety of methods to interfere with information systems. Some methods of attack are listed below. Guidance provided is applicable to many other computer networks.

- Injection Flaws are broad web application attack techniques that attempt to send commands to a browser, database, or other system, allowing a regular user to control behavior. The most common example is SQL injection, which subverts the relationship between a webpage and its supporting database, typically to obtain information contained inside the database. Another form is command injection, where an untrusted user is able to send commands to operating systems supporting a web application or database. See the United States Computer Emergency Readiness Team (US-CERT) Publication on SQL Injection for more information.
- *Cross-site scripting (XSS) vulnerabilities* allow threat actors to insert and execute unauthorized code in web applications. Successful XSS attacks on websites can provide the attacker unauthorized access. For prevention and mitigation strategies against XSS, see US-CERT's Alert on <u>Compromised Web Servers and Web Shells</u>.
- Server vulnerabilities may be exploited to allow unauthorized access to sensitive information. An attack against a poorly configured server may allow an adversary access to critical information including any websites or databases hosted on the server. See US-CERT's Tip on Website Security for additional information.

Recommended Mitigations

Commit to Cybersecurity Best Practices

A commitment to good cybersecurity and best practices is critical to protecting networks and systems. Here are some questions you may want to ask your organization to help prevent and mitigate against attacks.

- 1. **Backups**: Do we backup all critical information? Are the backups stored offline? Have we tested our ability to revert to backups during an incident?
- 2. **Risk Analysis**: Have we conducted a cybersecurity risk analysis of the organization?
- 3. **Staff Training**: Have we trained staff on cybersecurity best practices?
- 4. **Vulnerability Scanning & Patching**: Have we implemented regular scans of our network and systems and appropriate patching of known system vulnerabilities?
- 5. **Application Whitelisting**: Do we allow only approved programs to run on our networks?
- 6. **Incident Response**: Do we have an incident response plan and have we practiced it?





- 7. **Business Continuity**: Are we able to sustain business operations without access to certain systems? For how long? Have we tested this?
- 8. **Penetration Testing**: Have we attempted to hack into our own systems to test the security of our systems and our ability to defend against attacks?

Top Seven Mitigation Strategies

DHS encourages network administrators to implement the recommendations below, which can prevent as many as 85 percent of targeted cyber-attacks. These strategies are common sense to many, but DHS continues to see intrusions because organizations fail to use these basic measures.

- 1. **Patch applications and operating systems** Vulnerable applications and operating systems are the targets of most attacks. Ensuring these are patched with the latest updates greatly reduces the number of exploitable entry points available to an attacker. Use best practices when updating software and patches by only downloading updates from authenticated vendor sites.
- 2. **Application whitelisting** Whitelisting is one of the best security strategies because it allows only specified programs to run while blocking all others, including malicious software.
- 3. **Restrict administrative privileges** Threat actors are increasingly focused on gaining control of legitimate credentials, especially those associated with highly privileged accounts. Reduce privileges to only those needed for a user's duties. Separate administrators into privilege tiers with limited access to other tiers.
- 4. **Network Segmentation and Segregation into Security Zones** Segment networks into logical enclaves and restrict host-to-host communications paths. This helps protect sensitive information and critical services and limits damage from network perimeter breaches.
- 5. **Input validation** Input validation is a method of sanitizing untrusted user input provided by users of a web application, and may prevent many types of web application security flaws, such as SQLi, XSS, and command injection.
- 6. **File Reputation** Tune Anti-Virus file reputation systems to the most aggressive setting possible; some products can limit execution to only the highest reputation files, stopping a wide range of untrustworthy code from gaining control.
- 7. **Understanding firewalls** When anyone or anything can access your network at any time, your network is more susceptible to being attacked. Firewalls can be configured to block data from certain locations (IP whitelisting) or applications while allowing relevant and necessary data through.



Responding to Unauthorized Access to Networks

Implement your security incident response and business continuity plan. It may take time for your organization's IT professionals to isolate and remove threats to your systems and restore normal operations. Meanwhile, you should take steps to maintain your organization's essential functions according to your business continuity plan. Organizations should maintain and regularly test backup plans, disaster recovery plans, and business continuity procedures.

Contact DHS or law enforcement immediately. We encourage you to contact DHS NCCIC (NCCICCustomerService@hq.dhs.gov or 888-282-0870), the FBI through a local field office or the FBI's Cyber Division (CyWatch@ic.fbi.gov or 855-292-3937) to report an intrusion and to request incident response resources or technical assistance.

Detailed Mitigation Strategies

Protect Against SQL Injection and Other Attacks on Web Services
Routinely evaluate known and published vulnerabilities, perform software updates and technology refreshes periodically, and audit external-facing systems for known Web application vulnerabilities. Take steps to harden both Web applications and the servers hosting them to reduce the risk of network intrusion via this vector.¹

- Use and configure available firewalls to block attacks.
- Take steps to further secure Windows systems such as installing and configuring
 Microsoft's Enhanced Mitigation Experience Toolkit (EMET) and Microsoft AppLocker.
- Monitor and remove any unauthorized code present in any www directories.
- Disable, discontinue, or disallow the use of Internet Control Message Protocol (ICMP) and Simple Network Management Protocol (SNMP) and response to these protocols as much as possible.
- Remove non-required HTTP verbs from Web servers as typical Web servers and applications only require GET, POST, and HEAD.
- Where possible, minimize server fingerprinting by configuring Web servers to avoid responding with banners identifying the server software and version number.
- Secure both the operating system and the application.
- Update and patch production servers regularly.
- Disable potentially harmful SQL-stored procedure calls.
- Sanitize and validate input to ensure that it is properly typed and does not contain escaped code.
- Consider using type-safe stored procedures and prepared statements.
- Perform regular audits of transaction logs for suspicious activity.
- Perform penetration testing against Web services.
- Ensure error messages are generic and do not expose too much information.

¹ http://msdn.microsoft.com/en-us/library/ff648653.aspx. Web site last accessed April 11, 2016.



Phishing and Spearphishing

- Implement a Sender Policy Framework (SPF) record for your organization's Domain Name System (DNS) zone file to minimize risks relating to the receipt of spoofed messages.
- Educate users to be suspicious of unsolicited phone calls, social media interactions, or email messages from individuals asking about employees or other internal information. If an unknown individual claims to be from a legitimate organization, try to verify his or her identity directly with the company.
- Do not provide personal information or information about your organization, including its structure or networks, unless you are certain of a person's authority to have the information.
- Do not reveal personal or financial information in social media or email, and do not respond to solicitations for this information. This includes following links sent in email.
- Pay attention to the URL of a website. Malicious websites may look identical to a legitimate site, but the URL often includes a variation in spelling or a different domain than the valid website (e.g., .com vs. .net).
- If you are unsure whether an email request is legitimate, try to verify it by contacting the company directly. Do not use contact information provided on a website connected to the request; instead, check previous statements for contact information. Information about known phishing attacks is also available online from groups such as the Anti-Phishing Working Group (http://www.antiphishing.org).
- Take advantage of anti-phishing features offered by your email client and web browser.
- Patch all systems for critical vulnerabilities, prioritizing timely patching of software that processes Internet data, such as web browsers, browser plugins, and document readers.

Permissions, Privileges, and Access Controls

- Reduce privileges to only those needed for a user's duties.
- Restrict users' ability (permissions) to install and run unwanted software applications, and apply the principle of "Least Privilege" to all systems and services. Restricting these privileges may prevent malware from running or limit its capability to spread through the network.
- Carefully consider the risks before granting administrative rights to users on their own machines.
- Scrub and verify all administrator accounts regularly.
- Configure Group Policy to restrict all users to only one login session, where possible.
- Enforce secure network authentication where possible.
- Instruct administrators to use non-privileged accounts for standard functions such as Web browsing or checking Web mail.



- Segment networks into logical enclaves and restrict host-to-host communication paths.

 Containment provided by enclaving also makes incident cleanup significantly less costly.
- Configure firewalls to disallow RDP traffic coming from outside of the network boundary, except for in specific configurations such as when tunneled through a secondary VPN with lower privileges.
- Audit existing firewall rules and close all ports that are not explicitly needed for business.
 Specifically, carefully consider which ports should be connecting outbound versus inbound.
- Enforce a strict lockout policy for network users and closely monitor logs for failed login activity. This can be indicative of failed intrusion activity.
- If remote access between zones is an unavoidable business need, log and monitor these connections closely.
- In environments with a high risk of interception or intrusion, organizations should consider supplementing password authentication with other forms of authentication such as challenge/response or multifactor authentication using biometric or physical tokens.

Credentials

- Enforce a tiered administrative model with dedicated administrator workstations and separate administrative accounts that are used exclusively for each tier to prevent tools, such as Mimikatz, for credential theft from harvesting domain-level credentials.
- Implement multi-factor authentication (e.g., smart cards) or at minimum ensure users choose complex passwords that change regularly.
- Be aware that some services (e.g., FTP, telnet, and .rlogin) transmit user credentials in clear text. Minimize the use of these services where possible or consider more secure alternatives.
- Properly secure password files by making hashed passwords more difficult to acquire.
 Password hashes can be cracked within seconds using freely available tools. Consider restricting access to sensitive password hashes by using a shadow password file or equivalent on UNIX systems.
- Replace or modify services so that all user credentials are passed through an encrypted channel.
- Avoid password policies that reduce the overall strength of credentials. Policies to avoid
 include lack of password expiration date, lack of lockout policy, low or disabled
 password complexity requirements, and password history set to zero.
- Ensure that users are not re-using passwords between zones by setting policies and conducting regular audits.
- Use unique passwords for local accounts for each device.



Logging Practices

- Ensure event logging (applications, events, login activities, security attributes, etc.) is turned on or monitored for identification of security issues.
- Configure network logs to provide enough information to assist in quickly developing an accurate determination of a security incident.
- Upgrade PowerShell to new versions with enhanced logging features and monitor the logs to detect usage of PowerShell commands, which are often malware-related.
- Secure logs, potentially in a centralized location, and protect them from modification.
- Prepare an incident response plan that can be rapidly implemented in case of a cyber intrusion.

How to Enhance Your Organization's Cybersecurity Posture

DHS offers a variety of resources for organizations to help recognize and address their cybersecurity risks. Resources include discussion points, steps to start evaluating a cybersecurity program, and a list of hands-on resources available to organizations. For a list of services, visit https://www.us-cert.gov/ccubedvp. Other resources include:

- The Cyber Security Advisors (CSA) program bolsters cybersecurity preparedness, risk mitigation, and incident response capabilities of critical infrastructure entities and more closely aligns them with the Federal Government. CSAs are DHS personnel assigned to districts throughout the country and territories, with at least one advisor in each of the 10 CSA regions, which mirror the Federal Emergency Management Agency regions. For more information, email cyberadvisor@hq.dhs.gov.
- Cyber Resilience Review (CRR) is a no-cost, voluntary assessment to evaluate and enhance cybersecurity within critical infrastructure sectors, as well as state, local, tribal, and territorial governments. The goal of the CRR is to develop an understanding and measurement of key cybersecurity capabilities to provide meaningful indicators of an entity's operational resilience and ability to manage cyber risk to critical services during normal operations and times of operational stress and crisis. Visit https://www.cert.org/resilience/rmm.html to learn more about the CERT Resilience Management Model.
- Enhanced Cybersecurity Services (ECS) helps critical infrastructure owners and operators protect their systems by sharing sensitive and classified cyber threat information with Commercial Service Providers (CSPs) and Operational Implementers (OIs). CSPs then use the cyber threat information to protect CI customers. OIs use the threat information to protect internal networks. For more information, email ECS_Program@hg.dhs.gov.
- The Cybersecurity Information Sharing and Collaboration Program (CISCP) is a voluntary information-sharing and collaboration program between and among critical



infrastructure partners and the Federal Government. For more information, email <u>CISCP@us-cert.gov</u>.

• The Automated Indicator Sharing (AIS) initiative is a DHS effort to create a system where as soon as a company or federal agency observes an attempted compromise, the indicator will be shared in real time with all of our partners, protecting them from that particular threat. That means adversaries can only use an attack once, which increases their costs and ultimately reduces the prevalence of cyber-attacks. While AIS will not eliminate sophisticated cyber threats, it will allow companies and federal agencies to concentrate more on them by clearing away less sophisticated attacks.

AIS participants connect to a DHS-managed system in the NCCIC that allows bidirectional sharing of cyber threat indicators. A server housed at each participant's location allows each to exchange indicators with the NCCIC. Participants will not only receive DHS-developed indicators, but can share indicators they have observed in their own network defense efforts, which DHS will then share with all AIS participants. For more information, visit https://www.dhs.gov/ais.

• The Cybersecurity Framework (Framework), developed by the National Institute of Standards and Technology (NIST) in collaboration with the public and private sectors, is a tool that can improve the cybersecurity readiness of entities. The Framework enables entities, regardless of size, degree of cyber risk, or cyber sophistication, to apply principles and best practices of risk management to improve the security and resiliency of critical infrastructure. The Framework provides standards, guidelines, and practices that are working effectively today. It consists of three parts—the Framework Core, the Framework Profile, and Framework Implementation Tiers—and emphasizes five functions: Identify, Protect, Detect, Respond, and Recover. Use of the Framework is strictly voluntary. For more information, visit https://www.nist.gov/cyberframework or email cyberframework@nist.gov.



Contact Information

Recipients of this report are encouraged to contribute any additional information that they may have related to this threat. Include the JAR reference number (JAR-16-20296) in the subject line of all email correspondence. For any questions related to this report, please contact NCCIC or the FBI.

NCCIC:

Phone: +1-888-282-0780

Email: NCCICCustomerService@hq.dhs.gov

FBI:

Phone: +1-855-292-3937 Email: cywatch@ic.fbi.gov

Feedback

NCCIC continuously strives to improve its products and services. You can help by answering a few short questions about this product at the following URL: https://www.us-cert.gov/forms/feedback.

THE WHITE HOUSE

WASHINGTON

February 13, 2017

In the course of my duties as the incoming National Security Advisor, I held numerous phone calls with foreign counterparts, ministers, and ambassadors. These calls were to facilitate a smooth transition and begin to build the necessary relationships between the President, his advisors and foreign leaders. Such calls are standard practice in any transition of this magnitude.

Unfortunately, because of the fast pace of events, I inadvertently briefed the Vice President Elect and others with incomplete information regarding my phone calls with the Russian Ambassador. I have sincerely apologized to the President and the Vice President, and they have accepted my apology.

Throughout my over thirty three years of honorable military service, and my tenure as the National Security Advisor, I have always performed my duties with the utmost of integrity and honesty to those I have served, to include the President of the United States.

I am tendering my resignation, honored to have served our nation and the American people in such a distinguished way.

I am also extremely honored to have served President Trump, who in just three weeks, has reoriented American foreign policy in fundamental ways to restore America's leadership position in the world,

As I step away once again from serving my nation in this current capacity, I wish to thank President Trump for his personal loyalty, the friendship of those who I worked with throughout the hard fought campaign, the challenging period of transition, and during the early days of his presidency.

I know with the strong leadership of President Donald J. Trump and Vice President Mike Pence and the superb team they are assembling, this team will go down in history as one of the greatest presidencies in U.S. history, and I firmly believe the American people will be well served as they all work together to help Make America Great Again.

Michael T. Elynn, LTG (Ret)

Assistant to the Physident / National Security Advisor

From: J Rybicki

Sent: Saturday, February 25, 2017 3:58 PM

To: Rybicki, James E. (DO) (FBI)

Subject: Fwd: Politico

http://www.politico.com/story/2017/02/james-comey-fbi-trump-russia-probe-235394

Rybicki, James E. (DO) (FBI)

From: Rybicki, James E. (DO) (FBI)

Sent: Saturday, March 04, 2017 7:12 PM

To: J Rybicki

The DOJ has no information that supports the allegations made in this morning's Tweets."

Rybicki, James E. (DO) (FBI)

From:

Rybicki, James E. (DO) (FBI)

Sent:	Tuesday, March 07, 2017 6:45 AM	
То:	J Rybicki	
Subject:	Fwd:	
Jubject.	I WA.	
Original r	nessage	
	lames E. (DO) (FBI)" <james.rybicki@ic.fbi.gov></james.rybicki@ic.fbi.gov>	
	4 AM (GMT-05:00)	
То:	b6 -1	
Subject: RE:		
,		
Please come tall	to me. I think many of your assumptions are off base and I want to tell you how I	
	laybe take the morning and then we can either talk by phone or I'll meet you later?	
Original r	message 	
From:		
	1 AM (GMT-05:00)	
5	nes E. (DO) (FBI)" <james.rybicki@ic.fbi.gov></james.rybicki@ic.fbi.gov>	
Subject:		
C C		b6 -1
Good morning. Giv	ven that it is quiet today	20 1
		b6 -1
	1	b6 -1
	I would come to talk to your	b6 -1
your plate right nov	I would come to talk to you,and you have enough on v.	20 1
, as commission to the state of		
		b6 -1

Sent from my iPad

From: J Rybicki

Sent: Thursday, March 09, 2017 10:13 PM

To: Rybicki, James E. (DO) (FBI)

 $\frac{https://mobile.nytimes.com/2017/03/09/us/politics/justice-dept-declines-to-back-claim-trump-is-not-under-investigation.html?smid=tw-nytimes\&smtyp=cur\&referer=https://t.co/bLtCB7sP7d$

From: J Rybicki

Sent: Thursday, March 09, 2017 10:16 PM

To: Rybicki, James E. (DO) (FBI)

 $\frac{https://mobile.nytimes.com/2017/03/09/us/politics/justice-dept-declines-to-back-claim-trump-is-not-under-investigation.html?smid=tw-nytimes\&smtyp=cur\&referer=https://t.co/bLtCB7sP7d$

[&]quot;James B. Comey, the F.B.I. director, urged counterparts at the Justice Department to publicly refute Mr. Trump's charge. Department officials have declined to do so, and Mr. Comey has remained silent on the issue publicly."

From: J Rybicki

Sent: Monday, March 13, 2017 10:18 PM

To: Rybicki, James E. (DO) (FBI)

Meanwhile, Republican Sen. Lindsey Graham, who also made a request to the Justice Department alongside fellow Judiciary Committee member Sheldon Whitehouse, D-Rhode Island, said he hasn't heard back from the agency.

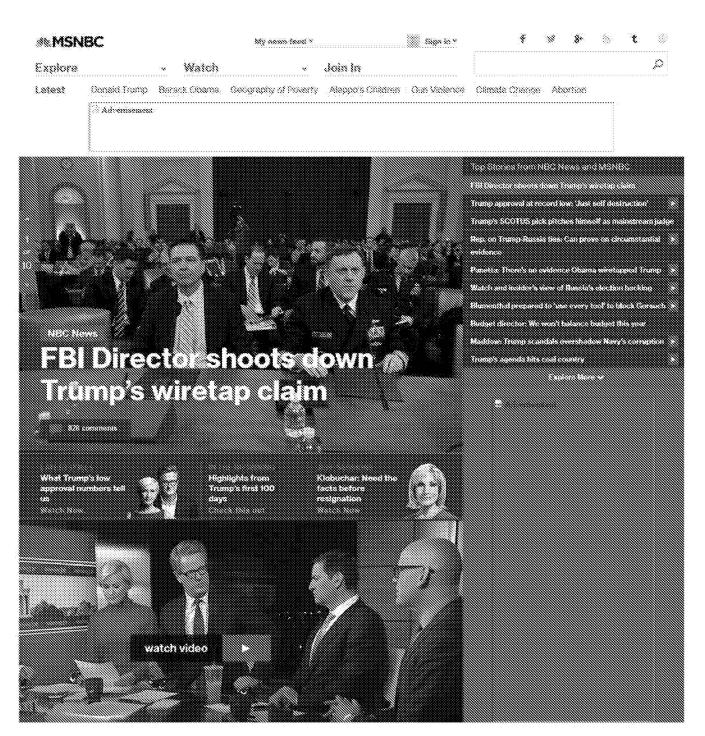
"I'm getting very ill-tempered over this," the South Carolina senator told reporters. "I expect them to take some time, but Judiciary has control over the FBI—oversight. So I have said, OK, let's keep the committee process in place, regular order, so if the FBI runs over to the Intel committee and they testify there, and they don't respond to my letter, I think that's a mistake, because the FBI is under our jurisdiction."

Graham said he'll give "them a little more time" but warned that (FBI Director James) Comey ought to respond to the letter.

"You'll run afoul of the Judiciary Committee. If I were you, I wouldn't do that," he said. "Director Comey, trying to give you a little advice here."

From:Rybicki, James E. (DO) (FBI)Sent:Monday, March 20, 2017 5:48 PM

To: J Rybicki



 From:
 Rybicki, James E. (DO) (FBI)

 Sent:
 Monday, March 20, 2017 5:49 PM

To: J Rybicki



1000

FBI HEAD HAS 'NO INFORMATION' BACKING WIRETAP CLAIMS AMID PROBE OF POSSIBLE LINKS BETWEEN TRUMP ASSOCIATES, RUSSIANS







(2000) Francisco

Fig. Director comes Covery today said he has "no information" supporting President Trump's explosive atlegations that the Oberna administration westapped the Trump bresidential compagn test year.

During the five hour flearing. Comey also confirmed an investigation of possible links between Trump associates and Russia, a story line that the president has decreed attenuately as a "ruse" and "fake news." Comey also indicated that Vladamir Putin hated.

NEWS



Toes rescued after felling trimage toy poed in Cardinal Park Looke and a second contraction.



Coemakers and officials questioning Triang's wirefacting claims books to response



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TOP STORIES



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Boy choked by family dog polling on scarl has died

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From: Rybicki, James E. (DO) (FBI)
Sent: Monday, March 20, 2017 5:50 PM

To: J Rybicki

politics

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45 Congress

Security

The Nine

Trumpmerica



Comey: No info to support wiretapping tweets

During a hearing on the investigation into Russian activity in the 2016 stection, FBI Director James Corney says there is no information to support President Trump's unverified wiretepping ciaims. Source: CNN















Comey: No into is support westapping treets



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Patering sett on Resistantisty in US section



Carrey?



ine weetspy in 2 minutes

Recommended For You



Commentator: Do set pist weeds in my mouth



Dave Chappelle crashes lower half



Heated White House exchange you need to see



Trump diseast desposit when asked if he has proof of wretap



Mogherini: We'vis intered diterent phase with US



Cx-CIA agent Wit going to get people killed

Paid Content



How To Fix Your Fallense (Sc This Every Cost)



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Say Story: The Micretion CR Control Despesse hours contact



Genvaeni Rena Invited You To his Table of Venera, flafy To Table His Pasta Committee



George Coursey Strong Off For Brand Nove \$15 tolkion House

Rybicki, James E. (DO) (FBI)

From: Rybicki, James E. (DO) (FBI)

Sent: Monday, March 20, 2017 6:17 PM

To: J Rybicki

Attachments: 170320102216-james-comey-hearing-march-20-exlarge-169.jpg; ap-comey-

760x428.jpg; RT-Comey-MEM-170320_16x9_992.jpg; Watch-live-FBI-chief-

Comey-to-discuss-Russia-Trumps-wiretap-claims.jpg









From: J Rybicki

Sent: Monday, March 20, 2017 9:01 PM

To: Rybicki, James E. (DO) (FBI)

http://www.bostonglobe.com/news/politics/2017/03/20/comey-takes-shot-patriots-make-point-congressional-hearing/8aPnatFXdwJloKLq33c9HP/story.html?p1=Article_Trending_Most_Viewed

Rybicki, James E. (DO) (FBI)

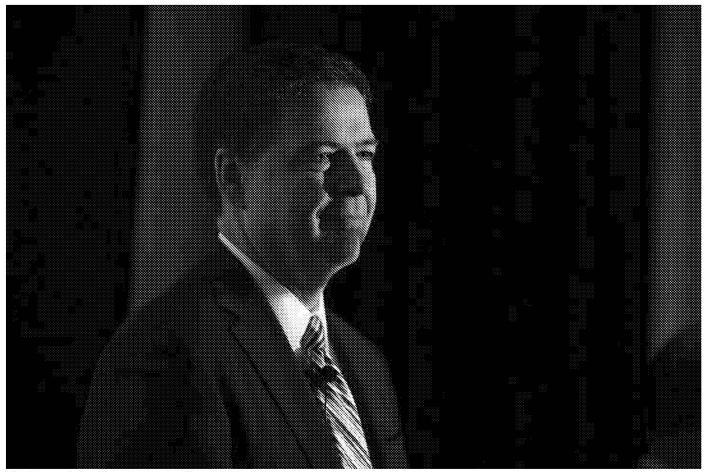
From: Rybicki, James E. (DO) (FBI)

Sent: Thursday, April 20, 2017 11:11 AM

To: J Rybicki

Subject: FW: Time 100

http://time.com/collection/2017-time-100/



Photograph by Chip Somodevilla—Getty Images

James Comey

Ву

John McCain

Integrity is a word that doesn't get used a lot in Washington anymore. But that is the quality that has defined James Comey's service to our nation. We saw it when he was a federal prosecutor who took on terrorists, mobsters and corporate fraudsters. We saw it when he stood on principle against members of the Administration in which he served, even when it might have cost him his job. And we saw it during one of the most extraordinary elections in our history, in which he confronted circumstances unlike those faced by any of his predecessors, when FBI Director Comey followed the law, spoke the truth and did what he believed was right.

Shifting political winds have blown criticism James Comey's way from different partisan directions. But his

independence has never faltered. His integrity has never wavered. And I know that in the pursuit of justice, it never

will.

From: J Rybicki

Wednesday, April 26, 2017 8:58 PM Sent:

To: Rybicki, James E. (DO) (FBI)



Kim Dotcom @ @KimDotcom 15h FBI Director Comey on G550 to Hawaii. NZ Gov made sure he wasn't bothered with Police questions about FBI theft of my data. #SovereigntyGone



Rybicki, James E. (DO) (FBI)

From: Rybicki, James E. (DO) (FBI)

Sent: Friday, May 12, 2017 7:54 PM

To: J Rybicki

Subject: Fwd: Thank You and Stay Strong

--- Original message ------From: "Rybicki, James E. (DO) (FBI)" <James.Rybicki@ic.fbi.gov> Date: 5/12/17 7:42 PM (GMT-05:00) (DO) (FBI)" b6 -1 To: (DO) (FBI)" (DO) (OGA)' "Campbell, Joshua S. (DO) (FBI)" <Joshua.Campbell@ic.fbi.gov>, (SECD) (FBI)" (DO) (FBI)" (SECD) (FBI)' (DO) (FBI) (DO) (FBI)' <u>(DO) (FBI)</u>" (DO) (FBI)"

Subject: Thank You and Stay Strong

Friends-

At the end of what I think has been the most turbulent week of any of our professional lives, I wanted to thank you for the support you have shown for Director Comey, Acting Director McCabe, the FBI family, and each other. I'm very honored to be associated with each of you and your teams. I think we showed this week the true heart of our office and I could not be more proud. Director Comey is doing as well as can be expected, still laughing as much as possible. The weeks ahead will be tough, but I know that we will continue to rally around the Acting Director and support him to the best of our abilities. If you need ANYTHING this weekend, including just someone to talk to, please call me.

Best, Jim

J Rybicki		
From:	J Rybicki	
Sent:	Sunday, June 04, 2017 5:49 PM	
To:	Rybicki, James E. (DO) (FBI)	
Subject:	Fwd: Op-ed	
From: J Rybicki	4, 2017 at 1:55 PM 66 -1 o-ed	
Hey Josh-		
thought. As hi and the sentim chief of staff, t of the Director access to infor current position	having a great weekend. Thanks for the opportunity to review. I've given this a lot of is colleague and friend of nearly 15 years I absolutely love it. It really does capture him nent of those in the Bu. Very well done and a story that deserves to be well known. As hough, I really can't support it going out for public consumption from a current member r's staff. As we discussed, we as members of the inner circle are given extraordinary remation and scenes that I think should remain protected while we are still serving in our ons. I think the calculus changes once we leave our positions. I also think about it ne story comes out organically or is originally published for an internal audience.	
1. -	d, if you've checked all of the appropriate boxes and folks are ok with your sending, I ot stand in your way and will understand. I would suggest that if you go forward that you	b 5
Let me know if	you want to chat. I'm around all day and tomorrow.	
Thanks! Jim		
Hi Jim, hope approved ve	wrote: the weekend is going well. Just wanted to pass along the final edited Pre-Pub/OICersion below (the printed copy I gave you was very much a rough draft and was too long). I also let Andy know so no one is blindsided. Please let me know any thoughts from your sh	
Comovia Las		
Comey's Leg	;acy	ъ6
I		D G

From: J Rybicki

Sent: Saturday, June 17, 2017 9:22 PM

To: Rybicki, James E. (DO) (FBI)

Subject: Google

From: J Rybicki

Sent: Monday, July 17, 2017 8:03 PM

To: Rybicki, James E. (DO) (FBI)

Subject: McConnell plans vote for FBI nominee Wray before August recess - POLITICO

McConnell plans vote for FBI nominee Wray before August recess - POLITICO

http://www.politico.com/story/2017/07/17/mcconnell-plans-wray-vote-before-recess-240650

From: J Rybicki

Sent: Saturday, September 02, 2017 8:10 PM

To: Rybicki, James E. (DO) (FBI)

John C. Demers of Virginia to be an Assistant Attorney General, National Security Division, at the Department of Justice.

Mr. Demers is Vice President and Assistant General Counsel at The Boeing Company. He has held several senior positions at the company including in Boeing Defense, Space, and Security and as lead lawyer and head of international government affairs for Boeing International. From 2006 to 2009, Mr. Demers served on the first leadership team of the National Security Division, first as Senior Counsel to the Assistant Attorney General and then as Deputy Assistant Attorney General for the Office of Law & Policy. Before that, he served in the Office of Legal Counsel. For the past eight years, he has taught national security law as an adjunct professor at the Georgetown University Law Center. Mr. Demers worked in private practice in Boston and clerked for Associate Justice Antonin Scalia of the U.S. Supreme Court and Judge Diarmuid O'Scannlain of the U.S. Court of Appeals for the Ninth Circuit. He graduated from Harvard Law School and the College of the Holy Cross.

Rybicki, James E. (DO) (FBI) Rybicki, James E. (DO) (FBI) From: Sunday, September 10, 2017 9:14 PM Sent: To: J Rybicki Subject: Fwd: Josh Norman at Q ----- Original message -----From: "Kortan, Michael P. (DO) (FBI)" <mpkortan@fbi.gov> Date: 9/10/17 7:30 PM (GMT-05:00) To: "McCabe, Andrew G. (DO) (FBI)" <amg.dd@fbi.gov>, "Bowdich, David L. (DO) (FBI)" "Rybicki, James E. (DO) (FBI)" < jerybicki@fbi.gov>, "Parlave, Valerie (DO) (FBI)" (DO) (FBI)" Subject: Josh Norman at Q In case you didn't see it, here's today segment with Redskins CB Josh Norman at Quantico.

b6 -1

http://www.foxsports.com/nfl/video/1043416131996

From: J Rybicki

Sent: Thursday, September 21, 2017 8:34 PM

To: Rybicki, James E. (DO) (FBI)

Subject: DHS rejects call to halt security detail for top officials - POLITICO

DHS rejects call to halt security detail for top officials - POLITICO

http://www.politico.com/story/2017/09/21/dhs-security-top-officials-242992

From:	Rybicki, James E. (DO) (FBI)
Sent:	Thursday, October 05, 2017 3:40 PM
To:	J Rybicki
Subject:	FW: Contact Information
Jubject.	1 W. Contact mornation
Original Message	
From:	NY) (TFO) b6 -1
18. 5	ber 05, 2017 3:20 PM
	(DO) (FBI) <jerybicki@fbi.gov></jerybicki@fbi.gov>
Subject: Contact Info	rmation
The rear on to	
James,	formation If you are need enathing in New York places let me know and if you
•	formation. If you ever need anything in New York please let me know and if you ily and want to go to the 9/11 Museum please contact me.
All the best,	
The best,	b6 -1
Detective Lieutenant	
Port Authority Police	of NY & NJ
Joint Terrorist Task F	orce
	b6 -1
Offic	ce
Cell	
Cell	

Rybicki, James E. (DO) (FBI)

Rybicki, James E. (D	O) (FBI)	
From: Sent: To: Subject: Attachments:	Rybicki, James E. (DO) (FBI) Monday, January 22, 2018 9:46 PM b6 -1 Fwd: HJC transcript HJC oversight of FBI hearing 12072017.docx	
Original mes	Sage	
From: Date: 12/8/17 2:57 F To: "Rybicki, James"	DO) (FBI)"	b6 -1
Subject: Fwd: HJC tr	anscript	
Per your request.		
Sent from my Verizon, :	Samsung Galaxy smartphone	

CQ CONGRESSIONAL TRANSCRIPTS

Congressional Hearings Dec. 7, 2017 - Final

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GOODLATTE:

The Judiciary Committee will come to order. And, without objection, the chair is authorized to declare recesses of the committee at any time. We welcome everyone to this morning's hearing on oversight of the Federal Bureau of Investigation, and I'll begin by recognizing myself for an opening statement.

Thank you, Director Wray, for appearing for your first time in front of this committee, and thank you for your service to our country in your new position. There is much to discuss today, and we look forward to your answers.

The president recently tweeted that the FBI is in tatters. While some will take umbrage with President Trump's assertion, it does appear to me that, at the very least, the FBI's reputation as an impartial, nonpolitical agency has been called into question recently.

We cannot afford for the FBI, which has traditionally been dubbed the premier law enforcement agency in the world, to become tainted by politicization or the perception of a lack of evenhandedness.

Questions regarding the FBI's impartiality first came to light under the Obama administration, surrounding the handling of the investigation into the Clinton e-mail server scandal. You, Director Wray, have a unique opportunity to repair the damage of the reputation of the FBI, and we encourage you in the strongest terms to do so.

Director Comey's decision to weigh in on the fate of the investigation into the mishandling of classified e-mails by former Secretary of State Hillary Clinton was one that brought criticism to the bureau from all sides.

The FBI's decision to recommend no charges against formers -- the former secretary or anyone connected to her continues to raise serious concerns that our nation's system of justice applies differently to the rich, powerful and well-connected than to everyone else.

Many on this committee have repeatedly called on Attorney General Sessions and Deputy Attorney General Rosenstein to name a second special counsel to review the voluminous unresolved inconsistencies and perceived improprieties with regard to formal -- to normal FBI and DOJ investigatory practice that arose during the Clinton e-mail investigation.

Despite our request, the department has not appointed a second special counsel. While we still request the appointment of a second special counsel, we have now also opened our own joint investigation with the House Oversight and Government Reform Committee to review FBI and DOJ's handling of that investigation.

The attorney general has recently committed to provide us relevant documents and I hope to hear directly from you that you will ensure your agency provides a fulsome response of documents to enable unimpeded congressional oversight.

Even more recently, reports on the bias of some of the career agents and lawyers on current Special Counsel Mueller's team are also deeply troubling to a system of blind and equal justice. Investigations must not be tainted by individuals imposing their own personal political opinions.

We do not know the magnitude of this insider bias on Mr. Mueller's team, nor do we have a clear understanding of the full magnitude of bias reflected in the Russia investigation and prior Clinton e-mail investigation.

One thing is clear, though: It is absolutely unacceptable for FBI employees to permit their own political predilections to contaminate any investigation. Even the appearance of impropriety will devastate the FBI's reputation.

We hope to hear from you today about an action plan for making sure this never happens again, that individuals are held accountable, and whether you plan to reevaluate prior decisions in light of the prejudice shown by officials in integral roles on past and ongoing investigations.

Concerning substantive legislative measures, we find ourselves only weeks before a critical program for our national security expires, FISA Section 702. This committee passed on an overwhelmingly bipartisan basis a reauthorization of Section 702 that maintains the integrity of the program while protecting cherished civil liberties.

GOODLATTE:

We ensure that the FBI is not hindered by having a -- having to obtain a warrant before performing a search for information that the agency has inside its databases. However, we also put in place protections to ensure that law enforcement cannot shortcut American civil liberties

by reading Americans' e-mails without a warrant when looking for evidence of run-of-the-mill crimes.

This committee's legislation struck a balance that will hope that will promote national security and civil liberties. So I hope to hear from you that you will work with us to make any perfecting changes to the legislation so that Section 702 can be reauthorized on time.

Needless violence on the home front is also a concern for all Americans who value and expect safety and security as they go about their day-to-day lives. We have seen horrific violence in the past year, including the worst mass shooting in U.S. history.

Violence has hit this very body when our colleague, Congressman Scalise, and others were shot. We also see many of our major cities stricken by daily murders and excessive violence. Is this the new normal? I'm unwilling to accept that.

While we have disagreements over policy for addressing this violence, we can all agree that it is essentially -- it is existentially important for us to understand and address the underlying causes. If we neglect this duty, we do a disservice for generations to come.

Director Wray, in addition to punishing individuals who have already committed criminal acts, I hope the FBI is also committed to crime prevention initiatives.

I am interested to know what steps federal law enforcement is taking to address the underlying causes of violence and whether Congress can offer any additional resources to ensure that we can faithfully say that we have done what we can to battle gratuitous violence in all of its forms.

I believe that this committee's criminal justice reform legislation will help address these problems, including helping to rehabilitate offenders so that they can become productive members of society, once released.

Notwithstanding the question of the impartiality and independence of the FBI, I am often astounded by the efforts that the men and women of the FBI contribute on a daily basis toward keeping our country safe from foreign and domestic threats. There are many successes that never come to light -- that never see the light of day, for which the FBI cannot receive public credit, due to the sensitivity of the FBI's methods and operations.

We are truly grateful and hope that the line agents, analysts and support staff of the FBI know that their jobs are sincerely appreciated and greatly valued.

Again, Director Wray, thank you for appearing today. And I'll now yield to the ranking member of the committee, the gentleman from New York, Mr. Nadler, for his opening statement.

NADLER:

Thank you, Mr. Chairman, and welcome to the House Judiciary Committee, Director Wray.

Earlier this week, in a message to your agents and employees, you gave us your vision of what the FBI is supposed to be. Quote, "We find ourselves under the microscope each and every day, and rightfully so. We do hard work for a living. We are entrusted with protecting the American people and upholding the Constitution and laws of The United States.

"Because of the importance of our mission, we are also entrusted with great power, and we should expect and welcome people asking tough questions about how we use that power. That goes with the job and always has," unquote, from your statement.

I appreciate that sentiment. But it cannot be a coincidence that you sent this message to your agents just hours after President Trump launched an online tantrum aimed largely at the bureau as an institution and at individual agents. Early Saturday morning, the president tweeted, quote, "So General Flynn lies to the FBI and his life destroyed, while crooked Hillary lies many times and nothing happens to her? Rigged system or just a double standard?" question mark, unquote.

He went on: "After years of Comey, with the phony and dishonest Clinton investigation, running the FBI, its reputation is in tatters, worst in history." These outbursts exemplify two key characteristics of the administration: a cheapening and coarsening of our dialogue, and baseless but entirely predictable political attacks against Hillary Clinton, political opponents, the Department of Justice and the FBI.

I fear that this demeaning language has infected much of our work here on this committee. And I suspect, Mr. Director, that many of my Republican colleagues will take a similar approach in attempting to shift the conversation away from questions they have largely ignored, like obstruction of justice, election security and the rise in hate crimes.

Indeed, I predict that these attacks on the FBI will grow louder and more brazen as the special counsel does his work and the walls close in around the president and evidence of his obstruction and other misdeeds becomes more apparent.

In this moment, Director Wray, your responsibility is not only to defend the bureau, but to push back against the president when he is clearly wrong, both on the facts and as a matter of principle.

When he says, quote, "the FBI person really reports directly to the president of the United States," unquote, it is your job to tell him that the director of the FBI has reported to the attorney general since the founding of the bureau, and the president should not comment on pending cases.

When he claims that you should focus on, quote, "crooked Hillary," unquote, instead of his closest associates, or when my colleagues argue for a new special counsel to do the same, it is your responsibility to remind us that, absent sufficient evidence of a crime, there is no investigation to which a special counsel can be assigned.

And when he tells you that you need to, quote, "clean house;" that your agents are, quote, "phony and dishonest;" and that your, quote, "reputation" -- or "the reputation of the bureau is in tatters"

and, quote, "the worst in history," you should do more than send a private e-mail to your employees. Your job, then, is to stand up to the president of the United States.

As former Acting Attorney General Sally Yates has said, "The only thing in tatters is the president's respect for the rule of law. The dedicated men and women of the FBI deserve better."

Or, as former Attorney General Eric Holder said, "You'll find integrity and honesty at FBI headquarters, and not at 1600 Pennsylvania Avenue, right now."

Or, as Thomas O'Connor, president of the FBI Agents Association, said, "The FBI continues to be the premier law enforcement agency in the world. FBI agents are dedicated to their mission. Suggesting otherwise is simply false," unquote.

I'm curious if you think their defense of the bureau is wrong or misplaced. And I hope you'll address the matter in your testimony today. Your job requires you to have the courage, in these circumstances, to stand up to the president. That responsibility is far more than a matter of politics.

There really -- there are real consequences for allowing the president to continue his attacks on the FBI and to continue unchecked in this manner. For example, FBI statistics released last month show a marked increase in the rise of hate crimes in the United States. Your data indicate 6,121 hate crimes against seven -- against 7,615 victims last year alone.

Last week, about 70 of our colleagues wrote to me and to Chairman Goodlatte, asking us to, quote, "convene immediate hearings to determine what can be done to stem the tide," unquote, of this violence. I agree completely. This committee should address the matter without delay, and I ask that the letter I have be made a part of the record.

GOODLATTE:

Without objection, it will be made a part of the record.

NADLER:

Thank you.

I am certain that more than one factor is to blame for this rise in violence, but I cannot help but look to a president who has tacitly and sometimes explicitly created an environment that is more hostile to the most vulnerable among us.

As a candidate, he denigrated women, characterized immigrants as rapists and openly mocked the disabled. As president, he cracked a Pocahontas joke at a ceremony honoring the contributions of Native Americans in combat defending this country, circulated unverified anti-Muslim videos produced by far-right fascist extremists in Great Britain and asked us to

remember the very -- the, quote, "very fine people," unquote, among the racists and white nationalists at Charlottesville. According to reports, he has even resurrected the question of President Obama's birthplace, a pernicious, racist lie from the start.

We are looking for leaders who have the moral -- who can supply some moral authority to lead this country. I hope you will be among them, Director Wray. I look forward to your testimony today.

I thank the chairman. I yield back.

GOODLATTE:

Chair thanks the gentleman.

We welcome our distinguished witness. And if you'll please rise, I'll begin by swearing you in.

Do you swear that the testimony that you are about to give shall be the truth, the whole truth and nothing but the truth, so help you God?

WRAY:

(OFF-MIKE).

GOODLATTE:

Thank you very much. Let the record show that the witness answered in the affirmative.

Mr. Christopher Wray was sworn in as the eighth director of the FBI on August 2, 2017. A New York City native, Mr. Wray graduated from Yale University and subsequently earned his law degree from Yale Law School.

Mr. Wray began his Department of Justice career in 1997 as an assistant U.S. attorney for the Northern District of Georgia, where he prosecuted cases ranging from public corruption to gun trafficking and financial fraud.

In 2001, he joined the Office of the Deputy Attorney General, where he served as associate deputy attorney general and then principal associate deputy attorney general.

In 2003, Mr. Wray was nominated by President George W. Bush to serve as assistant attorney general for the Criminal Division. At the conclusion of his tenure, Mr. Wray was awarded the Edmond J. Randolph Award, the Department of Justice's highest award for leadership and public service. Mr. Wray went on to practice law before returning to the public sector as Director of the FBI.

Mr. Wray, your written statement will be entered into the record in its entirety, and we ask you summarize your testimony in five minutes. Welcome.

WRAY:

Thank you, Mr. Chairman.

Mr. Chairman, Ranking Member Nadler, members of the committee, thank you for having me here today. This is my first opportunity to appear before this committee, and I look forward to our discussion.

Let me start by saying that it is, for me, the honor of a lifetime to be here representing the men and women of the FBI. There is no finer institution than the FBI, and no finer people than the men and women who work there and are its very beating heart: almost 37,000 men and women with a fierce commitment to protecting the American people and upholding the rule of law in all 50 states and in about 80 countries around the world, men and women who face the darkest that life has to offer with unyielding integrity and honesty and dedication. And I am both humbled and inspired to be back in public service working alongside them.

I'd like to take a step back to consider the serious challenges that we're facing and to remember the millions of people that we're protecting. On the national security front, we confront individuals who want to harm the United States in whatever way they can -- terrorists hell-bent on striking us with IEDs, vehicles, guns and knives. For example, as we speak, the bureau has about 1,000 active ISIS investigations in all 50 states.

We have nation-states actively seeking our technology, our military secrets, our research and development to build their own economic process and prowess and to tear ours down; cyber criminals who are using sophisticated means to infiltrate our systems and steal every piece of data that they can get their hands on.

These threats are real, they are many and they are a grave threat to all Americans. But, for the people we serve, these are not the threats that they encounter the most in their everyday lives. Threats like violent crime and the national opioid epidemic impact everyday people trying to lead everyday lives.

They don't want to have to worry about a terrorist driving a truck down a busy walkway. They don't want to worry about an active shooter opening fire on a crowded public gathering. And they certainly don't want to worry about whether their kids are safe from gangs and drug dealers and predators.

WRAY:

We all need to be aware of the world around us and of the threats we face, but we in the FBI are trying to do everything we can to make sure that the American people can go about living their lives while we focus on trying to keep them safe.

I'd like to highlight just a couple recent investigations that illustrate just a small, small part of our work, together with our law enforcement partners and our colleagues in the Justice Department.

In October, through Operation Cross Country, which the FBI conducted in 44 states and the District of Columbia, we arrested 120 sex traffickers and recovered 84 sexually exploited juveniles, including a three-month-old girl and her five-year-old sister, who were recovered from a family friend who was trying to sell them for sex for \$600.

And, through our top 10 most wanted fugitives program, we have apprehended, just in the last couple years, 10 of the most particularly dangerous offenders.

In August -- late August, we were able to work with our Mexican counterparts to capture Luis Macedo, a gang member charged with first- degree murder for beating, then shooting, and then setting on fire a 15-year-old boy in Illinois who refused to show a gang sign.

And then, earlier this year, the pressure of being added to our top 10 list led fugitive Robert Van Wisse to turn himself in to FBI agents in Texas for the 1983 murder of a young woman with a one-year- old daughter. For 33 years, that little girl, now all grown up, had hoped and prayed for his arrest, and he was finally captured on her birthday. Cold comfort, I suspect, but we hope that his capture provides some measure of peace and justice to her.

The work that we do is not easy, to put it mildly. But the FBI is mission focused and passionate about the work we do. We are determined to be the very best at protecting the American people and upholding the rule of law. And I, for one, could not be more proud to be part of it.

I want to thank you, this committee, for your support. We could not do what we do without the funding that you all help us secure, without the investigative tools and authorities that you granted us, including, as you noted, Mr. Chairman, Section 702 of the Foreign Intelligence Surveillance Act, which is at risk and set to expire very soon.

We need every tool and every authority we've got to keep people safe and to pursue justice. And, as always, we're committed to using those authorities lawfully and appropriately for the good and protection of the American people.

So thank you for having me here today. I look forward to your questions.

GOODLATTE:

Thank you, Director Wray. I'll begin by recognizing myself for questions.

Mr. Director, I'm sure you're aware of the recent media reports indicating that Peter Strzok, who
is a special agent at the FBI changed the words "grossly negligent" to "extremely careless" in
former Director Comey's statement closing the Clinton investigation. Are you aware of that?

WRAY:

I've heard some of the same information you have.

GOODLATTE:

Great. Do you know, by chance, what the criminal intent standard is under the Espionage Act? In particular, 18 USC 793(f).

WRAY:

I haven't studied the statute recently, but I believe it's gross negligence.

GOODLATTE:

That's right. It is gross negligence. So would it be accurate to say that a senior FBI official changed the wording of the director's statement to ensure that Secretary Clinton was not liable under the Espionage Act?

WRAY:

Well, Mr. Chairman, as you may know, the handling of the investigation into Secretary Clinton is currently the subject of an outside, independent investigation by the inspector general, and I think it would not be appropriate for me to speculate about what the inspector general will or will not find.

GOODLATTE:

That is probably appropriate, but it's still not at all inappropriate to ask you to draw a legal conclusion about a standard in the law that was changed in a statement that the -- your predecessor put out as a justification for closing the investigation of the former secretary of state.

WRAY:

As I said, Mr. Chairman, I believe the standard is gross negligence. I leave it to others to conclude whether "extremely careless" and "gross negligence" are the same thing.

But I will say that the particulars of the investigation and the decisions that were made and whether or not it was handled appropriately is, as I think it should be, the subject of an outside, independent investigation by the inspector general, and I look forward to his findings, as I'm sure the committee does, as well.

GOODLATTE:

In July of 2016, the State Department revealed that former Secretary of State Hillary Clinton exchanged on her unsecured private server nearly two dozen top secret e-mails with three State Department officials.

The classification Top Secret means, in part, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to national security.

Can you explain to the American people how the FBI could not be investigating actions taken by individuals like those named in 2016 -- Jacob Sullivan, Cheryl Mills, William Burns -- that threatened grave damage to the national security?

WRAY:

Well, as I said, Mr. Chairman, the handling of the investigation and whether or not -- in particular whether or not decisions made in that investigation were the product of any improper considerations is precisely what the outside, independent inspector general is investigating. And, when we get his findings, I will look and see what appropriate action we can take at the FBI in response to that.

GOODLATTE:

Can anyone on this committee set up a private server now and conduct classified business on it,

since not a single person has been prosecuted or held accountable for the Clinton e-mail investigation?	
WRAY:	
No.	
GOODLATTE:	

Thank you.

Director Wray, what are you doing to ensure that the top ranks of the Federal Bureau of Investigation are cleared of individuals who are tainted by bias or those who have exhibited indiscretion by failing to demonstrate the integrity Americans expect from their top law enforcement officials?

WRAY:

Well, the first thing I'm doing is respecting the outside, independent investigations that are underway. My preference is to be one of these people who is not a "act first and ask questions later" kind of guy, but an "ask questions first and then act" kind of guy.

And so I think these matters are being looked at, as they should be, by somebody outside the FBI. And, when those findings come to me, I will take appropriate action, if necessary.

In the meantime, I am emphasizing in every audience I can inside the bureau that our decisions need to be made based on nothing other than the facts and the law and our rules and our processes and our core values, and not based on any political considerations by any side of the aisle.

GOODLATTE:

Thank you.

Does the FBI obtain a warrant before accessing and reading Americans' e-mail?

WRAY:

It depends on the situation, but yes.

GOODLATTE:

So can you explain why you obtain a criminal search warrant before reading an e-mail of someone under investigation for a crime?

WRAY:

I'm sorry, can you repeat the question?

GOODLATTE:

Can you explain why you obtain a criminal search warrant before reading an e-mail of someone under investigation for a crime?

WRAY:

Well, in the situations where a search warrant is required, and, of course, under the Fourth Amendment, there are plenty of situations where a search warrant is not required -- there are all sorts of aspects to the Fourth Amendment. But, in those situations where we seek a warrant, it's because the Fourth Amendment requires it.

GOODLATTE:

Section 702, as you and I both noted, is up for renewal within a few weeks. It is a critical national security tool that must be reauthorized. You and I agree on that, as well. But it is just that -- a national security tool, not a criminal tool.

Is it reasonable, when accessing content that shows evidence of a routine crime and is located in the FBI's 702 database, that agents should obtain some process, as is required in criminal cases?

WRAY:

Mr. Chairman, I've appreciated our discussions on Section 702. My own view is that Section 702, as currently drafted, which is the view shared by the courts that have looked at the question, is fully constitutional and lawful.

And I would say to you that our handling of querying of the information in the 702 database is querying of information that is already lawfully and constitutionally in the FBI's possession and is most useful at the earliest stages, when information is coming in in fragments and the bureau is trying to make assessments of what do we have, is this a real threat, where is this going. And I would implore the committee and the Congress not to begin rebuilding the wall that existed before 9/11.

GOODLATTE:

Well, thank you. My time's expired, but I will add that we share that concern, as well, and that's why we have drawn a clear distinction between national security and solving domestic crimes.

And, when it comes to the query, we allow that to move forward. But, when you then find that there's something related to the investigation of a domestic crime, then you should go ahead and

get a search warrant. And we've protected the FBI's ability to access that database for the purpose of a query, but then, if you're going to take it further and actually read the contents of the e-mails -- if they're national security, go right ahead, because you may be stopping a terrorist attack.

But if you're solving a domestic crime, whatever it might be, then I think you need to respect the civil liberties of American citizens and get a warrant.

I now recognize the gentleman from New York, Mr. Nadler, for his questions.

NADLER:
Thank you.
Let me say prior to my statement that I totally agree with the chairman and his observations on 702 and on the distinctions we made in our bill between national security and counterintelligence operations, on the one hand, and investigations of domestic crimes, on the other, where we where you should get a warrant, where you'd normally need a warrant.
Director Wray, I'd like to ask you for your help putting the events of the last few days into context. To set the stage, over the summer, in an interview with The New York Times, President Trump stated, quote, "When Nixon came along, out of courtesy, the FBI started reporting to the Department of Justice, but the FBI person really reports directly to the president of the United States," close quote.
Director Wray, you have one direct report to the executive branch. To whom do you directly report?
WRAY:
I directly report to the deputy attorney general, who then reports to the attorney general.
NADLER:
Thank you.
Has President Trump ever asked you to sidestep the chain of command and report directly to him?
WRAY:
No.

NADLER:

Also, over the summer, former Director Comey testified that, during a private dinner, President Trump told him, quote, "I need loyalty. I expect loyalty." Has President Trump ever asked you for loyalty?

WRAY:

I have never been asked by the president to take any kind of loyalty oath. My loyalty is to the Constitution, to the laws of this country and to the -- you know, the good men and people of America.

NADLER:

Thank you.

Last week, former National Security Adviser Michael Flynn pleaded guilty to one felony count of lying to the FBI about conversations he had with the Russian ambassador.

I would like to put President Trump's initial Twitter reaction up on the screen. I won't read it, but I will simply say he claims here to have known that General Flynn committed a crime at the time General Flynn was fired.

There's come controversy as to whether the president actually wrote this Tweet. The White House later claimed that it came from the president's private attorney. But I'm not sure that it matters who wrote it, given the Department of Justice's litigating position that these tweets are, quote, "official statements of the president of The United States," close quote.

A few clarifying questions, Mr. Director. In your experience at the Department of Justice, have you ever prosecuted a case involving a charge of obstruction of justice?

WRAY:

Yes.

NADLER:

And Sections 1503, 1505 and 1512 of Title 18 make it a crime if someone corruptly, quote, "obstructs, influences or impedes any official proceeding," close quote. What does it mean to corruptly obstruct, influence or impede an official proceeding?

WRAY:
Well, Congressman, that would require me to get into kind of a legal discussion
(CROSSTALK)
WRAY:
WRAT:
and it's been a while since I've looked at the case law on this subject. I do know have (ph) somebody who's been both a line prosecutor and a senior Justice Department official and a defense attorney that sometimes the language of that statute can be trickier than folks
(CROSSTALK)
NADLER:
OK, fair enough fair enough. And I'm glad you're respecting the fact I only have five minutes
Does obstruction of justice require specific intent? In other words, does a prosecutor have to establish that a defendant had knowledge of the official proceeding and intended to obstruct it?
WRAY:
Sitting here right now, Congressman, I don't remember the specifics of exactly what the intent requirement is.
NADLER:
OK. So you can't say if it matters that a suspect well, does it matter that a suspect has knowledge of a crime when he attempts to wave off criminal investigators? In other words, if a suspect has knowledge of a crime and he attempts to wave off criminal investigators, does that constitute obstruction of justice?
WRAY:
Well, certainly, the defendant's knowledge and state of mind and intent is a critical element of the offense.

NADLER:

OK.

Later that day, the president tweeted this claim -- this claim that we'll put up there. And, in effect, he accuses former Director Comey of giving false testimony. Mr. Comey testified that President Trump urged him to be lenient with Michael Flynn, producing a note in which he quoted the president saying, "I hope you can't -- I hope you can let this go."

In multiple appearances before Congress, Attorney General Sessions appears to have corroborated both the fact of the meeting and the gist of the conversation between the president and Director Comey.

Director Wray, do you have any reason to doubt the testimony of Director Comey or Attorney General Sessions on this point?

WRAY:

Congressman, the questions you're asking go directly to what Special Counsel Mueller is investigating. I don't think it would be appropriate for me to be weighing in on that in this setting.

NADLER:

You don't think you can say whether you have reason to doubt the veracity of a statement because that might be under investigation?

WRAY:

NADLER:

Congressman, you're -- the question you're asking me -- and I appreciate the reasons for the question, but the questions you're asking me are -- would be asking me to weigh in on witnesses in the course of an investigation that's ongoing...

OK.
WRAY:

... and I don't think that's appropriate for me to do.

NADLER:

I -- fair enough. As -- at your confirmation hearing, you testified that you would, quote, "consider any attempt" -- I'm sorry, "any effort to tamper with Director Mueller's investigation unacceptable and inappropriate, and any such effort would need to be dealt with very sternly and appropriately, indeed."

Since your confirmation, has the president ever contacted you about the special counsel's investigation? Has the Attorney General or anybody else at the White House?

WRAY:
No.
NADLER:
OK.
My final question is, the president's tirade ended with one final tweet, where he says your reputation is in tatters. After years of well, Director Wray and it's up there we have heard other veterans of the FBI and the Department of Justice push back against this attack on the reputation of the FBI.
With the time I have we haven't heard from you. With the time I have left, will you respond to this tweet by the president? Is the FBI's reputation in tatters?
WRAY:
Mr. Chairman, may I have time to answer this question? Because it's something that matters to me a great deal.
GOODLATTE:
Yes, go ahead, please.
WRAY:

Congressman, there is no shortage of opinions out there. What I can tell you is that the FBI that I see is tens of thousands of agents and analysts and staff, working their tails off to keep Americans safe from the next terrorist attack; gang violence; child predators; spies from Russia, China, North Korea and Iran.

The FBI that I see is tens of thousands of brave men and women who are working as hard as they can to keep people that they will never know safe from harm. And the FBI that I see is reflected in folks like the new class of agents that I swore in at Quantico two days ago: hard-charging, high-integrity people; people like the hostage rescue team and SWAT teams that we send out into all sorts of danger with almost no notice.

The FBI that I see is people -- decent people committed to the highest principles of integrity and professionalism and respect. The FBI that I see is respected and appreciated by our partners in federal, state and local law enforcement; in the intelligence community; by our foreign counterparts, both law enforcement and national security, in something like 200 countries around the globe. That's the FBI that I see.

Now, do we make mistakes? You bet we make mistakes, just like everybody who's human makes mistakes. And, when we make mistakes, there are independent processes, like that of the outside, independent inspector general, that will drive and dive deep into the facts surrounding those mistakes. And, when that independent fact-finding is complete, we will hold our folks accountable, if that's appropriate.

NADLER:

It's very fine. Thank you very much. I yield back.

GOODLATTE:

The chair recognizes the gentleman from Ohio, Mr. Chabot, for five minutes.

CHABOT:

Thank you, Mr. Chairman.

Director Wray, you've mentioned that the I.G., the inspector general, is investigating matters related, for example, to the Clinton e-mail server scandal, et cetera. But isn't it a fact that the I.G. does not have prosecutorial powers?

WRAY:

Well, under certain circumstances, the inspector general works with prosecutors to bring criminal cases.

CHABOT:

Well, what about in this case?

WRAY:

Well, this is a matter that's under review, at the moment, looking into the facts surrounding all those decisions.

CHABOT:

So the bottom line is the I.G. is looking into the matter, investigating it, but has no prosecutorial powers per se at this time?

WRAY:

The inspector general does not himself have prosecutorial power, yes.

CHABOT:

Thank you. Thank you. Thank you.

The president of the United States, as the chairman mentioned, recently expressed the opinion that the FBI's reputation was, quote, "in tatters," unquote.

Now, someone who's sat on this committee, the judiciary committee that has oversight of the Justice Department and the FBI, for over 20 years now, such a statement is, at least at first, shocking. But, when you look at a few facts, it's understandable why the president might make such a statement.

A former head of the FBI, Robert Mueller, is put in charge of an important investigation, and who does he pick to be on his team? Well, you'd want people who are experienced and smart and, most importantly, unbiased, because, whatever you do, the result is going to be second-guessed. One side or the other is going to be dissatisfied and critical.

So, above all things, they've got to at least appear to be fair and unbiased. So who does Mueller pick? He picked 16 attorneys -- nine of the 16, more than half, have given money to the Obama campaign or the Clinton campaign or both, and nobody has given a cent to Donald Trump or his campaign.

Does that show a lack of bias? Does that show fairness? I think the American people can decide that for themselves.

And, perhaps even more shocking, we recently learned that one of those supposedly unbiased investigators on the Mueller team was a guy named Peter Strzok. Turns out Strzok was sending out anti-Trump, pro- Clinton messages, so he ultimately got canned from the investigation.

The question is, how did this guy get on your supposedly unbiased team in the first place, when you consider that this is the same guy that had a key position investigating the Hillary Clinton email server scandal, and apparently had a hand in altering the FBI's conclusion that Clinton was grossly negligent, down to "extremely careless," so she could escape prosecution and thus stay in the race against Donald Trump.

And now we learn that the number two guy on Mueller's team, Andrew Weissmann, is just as biased as Strzok. He made an anti-Trump communication to the since-fired Sally Yates, and the depths of this anti-Trump bias on the Mueller team just goes on and on. It's absolutely shocking.

Director Wray, I know all this took place before you took the helm at the FBI, but none other than the president of the United States has said that an organization that most Americans, including myself, hold in the highest esteem, the FBI, is in tatters.

What can you do -- what will you do to restore confidence in the premier law enforcement agency in the world?

WRAY:

Congressman, I appreciate the question and the reason for the question. It goes to the heart of whether or not the bureau is following its processes and the rules and the guidelines, and adhering to the independence and objectivity and professionalism that we all come to expect and respect from the FBI.

And I think the best way that I can validate the trust of the American people in the FBI is to ensure that we bring that same level of professionalism and integrity and objectivity and adherence to process in everything we do. As I said at the beginning, I think it is important that we not jump first and ask questions later.

So the second thing that I think can be done is, when there are fair questions to be asked about things like whether or not some of the decisions made in the 2016 investigation were handled appropriately or were subject or based on any kind of improper considerations, rather than have the FBI investigate itself, having an outside inspector general do the investigation and report to all of us on the findings, I think, is the -- one of the best things I can do. And then, based on that information, I won't hesitate to take appropriate action based on what it is he finds.

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Thank you.

And I'm almost out of time, but let me ask you, would you as FBI director, for example, ever permit associates of someone under investigation who themselves could also be under investigation to sit in an interview with the accused?

WRAY:

Well, I will say this: Having been, as I said to Congressman Nadler, both a line prosecutor a Justice Department official, but then also a defense attorney, that -- that's not my experience as the normal practice.

I'm also, however, reluctant to ever answer questions, as you can appreciate, with a hypothetical about whether I would ever do something, because every investigation is subject to its own unique circumstances.

CHABOT:

I certainly understand it, because that's exactly what happened in the so-called investigation of Hillary Clinton. And I yield back my time.

GOODLATTE:

The chair recognizes the gentlewoman from California, Ms. Lofgren, for five minutes.

LOFGREN:

Well, thank you, Mr. Chairman. And thank you, Mr. Director, for being here today. And thanks to you for your leadership of this agency, and to the men and women who work so hard to protect our country and to serve the United States. It's -- we all appreciate it, even though we might have a few questions.

My question -- my first question has to do with cybersecurity. You know, the -- there's a rapidly growing threat of cyber attacks at all levels, federal, state and local, business, personal level. And I was really concerned to learn in November of a report highlighting the FBI's failure to notify multiple government officials that they were the target of a Russian hacking campaign.

LOFGREN:

Now, at least according to this report, 500 people were targeted in the past year, including officials as high-profile as the former head of the Defense Intelligence Agency, the former head

of the -- Air Force intelligence. Many of these people still had security clearances or worked for the government.

So I'd like to know -- the FBI was, as I understand it, correct me if I'm wrong -- of these efforts for at least a year, but, I am advised, informed only two of the targets. Can you explain why these individuals had to learn from the Associated Press that they were targets of an aggressive Russian hacking effort?

And do we know if any classified information was stolen? Were any members of Congress or congressional staff a target? And what mechanisms or additional resources need to be put in place so that targeted officials know they're at risk when there's a foreign operation such as this?

WRAY:

Well, Congresswoman, I think I'm not comfortable trying to discuss this -- specific victim engagements in a particular investigation, at least in this setting. But I think what I can tell you, which might be helpful, in response is that we have very well- established criteria and policies and procedures for questions of victim notification in cyber matters.

And the questions -- and I probably can't repeat them to you verbatim, but I can give you the gist of them -- the questions go to things like, number one, can we identify the victim, which in a lot of cases is harder than you might think; number two, is the information that we have at that point in the investigation actionable for the victim -- is there something they can do with it, you know, can it -- could sharing the information actually protect somebody, prevent a loss, et cetera?

We also look at whether or not sharing the information at the time that we -- you know, in question would potentially compromise or jeopardize an existing investigation or reveal sources and methods, which is often the case in these kinds of investigations.

LOFGREN:

But -- yeah.

WRAY:

And the last point I guess I would make is that, when you have a large number of people, it's much easier for us to provide victim notification when we have official or government or corporate accounts, where we can contact the chief information security officer and then they can communicate to all the people who are on that server.

When you talk about Gmail accounts and things like that, it gets a lot harder, because a lot of people's Gmail addresses don't have, you know, Wray -- C-W-R-A-Y, or, you know, Lofgren, or...

(CROSSTALK)

LOFGREN:

Right. But, for example -- and I assume, if what you're describing is the current practice, when the Democratic National Committee was hacked by the Russians, the FBI contacted an intern. They never contacted the chairman of the DNC. She found out, you know, months later. So, hopefully, those types of procedures have been revised. Do you know that?

WRAY:

I think the procedures themselves remain the same, and the procedures themselves, I think, are pretty sound. The question of -- but if you think about what they are, they are questions that the investigators have to ask in each victim notification context.

LOFGREN:

Thank you.

Well, let me go -- when we had the Attorney General here recently, we asked -- there's an ongoing effort to hack into the election system. We know that from various reports. And the Attorney General said he -- really, nothing was going on that he hadn't been able to pay -- I'm paraphrasing -- he would say it's really important; we haven't spent enough time on it.

I'm getting the sense that that's true across the government. In fact, we've got systems that were hacked within half an hour at DEF CON by -- state voting systems. What is the FBI doing, relative to preserving the integrity of the voting structure itself for the next election?

WRAY:
Mr. Chairman, may I see my time may I answer that one?
(CROSSTALK)
GOODLATTE:
Yes (ph).
WRAY:

Well, I think the FBI is actually very focused on this subject. It's one of the things that I've tried to insist on, upon arriving. We have a foreign influence task force that we stood up that brings together both our counterintelligence division, our cyber division and our criminal division, as well as some other parts of the bureau.

We are in coordination, through that task force, with DHS, which of course has responsibility for a lot of the election infrastructure, along with states. We are in contact with our foreign partners, because, as you know, efforts to interfere with elections are occurring in other countries, as well, and so, by doing that with our close relationships with our foreign counterparts, we learn more about tradecraft methods and things like that.

So we're acutely focused on looking out for signs of interference in the 2018 or 2020 election cycle.

LOFGREN:

If I may, Mr. Chair, I know my time is up, but I hope that there is an effort by the bureau to communicate with state election officers, who oftentimes have been kept in the dark.

And I yield back.

GOODLATTE:

The chair recognizes the gentleman from California, Mr. Issa, for five minutes.

ISSA:

Thank you, Mr. Chairman.

Director Wray, a couple of questions, one is one that I'm sure you're aware of, and I'm just going to ask it as a "Do you agree?" And it's not hypothetical, but it's nonspecific. Do you agree that persons should not have their assets forfeited without due process and a provable link to criminal activity?

WRAY:

Well, Congressman, it's been a while since I looked at the law on asset forfeiture. So I want to be careful...

(CROSSTALK)

ISSA:
Well, this is a this is a constitutional, not a statutory question.
WRAY:
Well, I believe that, in the context of asset forfeiture, we should respect the constitution.
ISSA:
OK. So it's fair to say that, if somebody has \$10,000 in their van, they have it taken from them and they have to sue to get it back, even though they're never charged with a crime, that would be wrong under due process in the Constitution?
WRAY:
Well, again, I'm not trying to make this difficult, but I you know, to me, asset forfeiture questions raise all kinds of complicated case law questions about due process, et cetera.
What I do believe due process and adherence to the Constitution are incredibly important in the asset forfeiture context, as in elsewhere.
ISSA:
Thank you, Director.
Now, switching to the matter of Peter Strzok and I had a long time working with your folks on the personnel side, over at Oversight, where where we oversee a lot of those things.
And I just want to make the record straight, now that you're, in addition to being the chief from a law enforcement standpoint, you're also sort of the ultimate head of H.R. for those tens of thousands of people who are working so hard for us: Is an FBI agent allowed to have a political opinion?
WRAY:
Yes.
ISSA:

Is an FBI agent allowed to communicate that political opinion to their wife or even their mistress?
WRAY:
Yes.
ISSA:
So nothing in a text simply communicating a political opinion would be cause for firing or any other action under the ordinary rules of the FBI or any federal person (ph), correct?
WRAY:
I think each question would have to be based on its own circumstances. Certainly, I can imagine situations, as you're describing, where it wouldn't be, and I can imagine situations where it might be.
ISSA:
So that brings us to a situation, now, in which an individual is key to the question of whether or not there should be a full de novo review of the FBI's actions as to Hillary Clinton and the decision not to prosecute her, since he was he was actively involved in that.
So my question to you is, since it's clear that whatever Peter Strzok did was sufficient to have him relieved something that, in the ordinary course of simply communicating a political opinion, would not cause that, and would be inappropriate to relieve somebody simply for having a political opinion will you make available to this committee, upon the chairman's obvious request, the ability to see any or all of those 10,000 texts sufficient to understand why this individual was dismissed and how it might be relevant to the question of the objectivity of Director Comey's investigation and conclusions?
WRAY:
Well, there's a couple parts to your question, if I might. First, I want to be clear that the individual in question has not been dismissed or disciplined. What happened was what
ISSA:

He has not been dismissed, but he's been relieved from the duties he had and he's now...

WRAY:
Well, he was
ISSA:
he's now in H.R., which
WRAY:
he was reassigned he was reassigned away from the special counsel investigation, which is different than disciplinary action.
Second, as to the question of access to the text messages, we'd be happy to try to work with the committee on that. I want to be sensitive to that fact that there is an active very active outside, independent investigation by the inspector general, and the last thing I want to do and, I think, the last thing this committee would want to do would somehow compromise or interfere with that.
So we'll have to go through a process to assess how we can be sensitive to those operational considerations, while at the same time, as we should be, be responsive to Congress and this committee in its oversight responsibility (ph).
GOODLATTE:
Would the gentleman yield on that?
TOO A
ISSA:
Of course I'd yield to Chairman.
GOODLATTE:
I thank the gentleman for yielding.
We have been in communication with the Inspector General. We very much respect the investigation that is taking place there. And we have asked the Department of Justice and, through them, the Federal Bureau of Investigation for all of the 1.2 million documents that have been provided to the inspector general, minus those that relate to any particular on-going grand jury investigation.

Now, I have received back from the assistant attorney general, Mr. Boyd, a letter indicating that they will make a fulsome response to that request.

So I would like, in following up with Mr. Issa's question, to hear you tell us that you will also provide us with that honoring of that fulsome request, because most of those documents that the department has committed to provide are coming from the Federal Bureau of Investigation.

WRAY:

Sir, and I don't mean to suggest that we wouldn't be fully responsive and cooperative with the committee -- I'm simply saying that we would work with the Justice Department in making sure that we have considered all of the appropriate factors that we need to to make sure that we're not doing something on the -- in terms of unintended consequences with ongoing investigations. But we have no desire to frustrate the very legitimate oversight requests of this committee.

NADLER:

Would the chairman yield for a moment?

GOODLATTE:

Yes, I yield to the gentleman.

NADLER:

Thank you.

I just want to ask the director, do the -- can this kind or does this kind of document requests of the inspector general on an ongoing investigation -- could it interfere with that investigation? Is it proper to respond fulsomely? I mean, what are the limitations here?

WRAY:

Well, I think a lot of that is -- requires, as the chairman referenced, us to make sure that we are touching base with the inspector general, since it's his investigation and not ours.

If the inspector general is comfortable with the information being provided and that it's not going to interfere with or impede his investigation, then that's one very, very significant consideration that can be put to the side. So we'll...

NADLER:
But if he's not going to abide (ph)
(CROSSTALK)
WRAY:
I can commit that our staff will work with the Justice Department staff and your staff to make sure that we're doing everything we possibly can to be responsive, while at the same time making sure that we're not in some way jeopardizing or compromising an ongoing investigation or revealing something about a you know, a grand jury matter or anything like that.
NADLER:
We ask for it minus grand jury material. Obviously, it takes some time to do that. The Mr. Boyd committed to a date of January 15, and he's going to require your cooperation. So we want to have your assurance that that cooperation in meeting that date will be forthcoming.
We would tend to follow up with further letters on clarifying this. But it's very important that we have this information very quickly. The inspector general is completely cooperative with us in his investigation, but they're not his documents.
They are the FBI, the Department of Justice's documents. So the request is not directed at him; it's directed to the department, and we need to have full response.
WRAY:
We intend to be fully cooperative with both this committee and the inspector general.
GOODLATTE:
I robbed the gentleman from California of a bit of his time. So I'm going to
NADLER:
I have to say I yield back.
(LAUGHTER)

GOODLATTE:
I will
ISSA:
I'll be brief, Mr. Chairman.
(CROSSTALK)
GOODLATTE:
The gentleman is recognized for an additional minute.
ISSA:
Thank you.
Director, at this time, as far as you know, you're not asserting or believe there's any privilege as to those documents. Is that correct?
WRAY:
Well, I haven't reviewed the however many million documents that
ISSA:
I'm only saying that you at this time, you know of no privilege?
WRAY:
I'm not aware of it, but I really haven't asked the question yet, to be honest.
ISSA:
OK, I appreciate that.

And then, lastly, since -- in the case of Peter Strzok and other statements, because this information was not made available to us at a time in which you predecessor, Mr. Comey, specifically said he was breaking precedent and being open and transparent as to the investigation of Hillary Clinton's taking from government possession documents under the Federal Records Act and classified documents, do you agree that a de novo review, at some point, by someone, is clearly warranted as to whether or not the decision not to prosecute was appropriate?

WRAY:

Well, Congressman, I think what I would say to that is there is a -- what I would consider a de novo outside, independent review by the inspector general into whether or not decisions made, including charging or not charging decisions in the matter that you're referring to, were based on any kind of improper considerations or political considerations.

And, depending on what the inspector general finds, there could be any range of possible steps that we or others would have to take in response to those findings.

ISSA:

So it's not a de novo review by the inspector general, but a review of whether or not impropriety occurred. And, as such, a de novo review of that decision not to prosecute Hillary Clinton would be the question?

GOODLATTE:

The time of the gentleman has expired.

WRAY:

I think I...

GOODLATTE:

The director may answer the question.

WRAY:

... yeah, I think I can briefly respond, which is, I think of the inspector general's investigation as de novo in one sense, which is that it's objective, arm's-length, no skin in the game, if you will.

However, however, the inspector general is looking at the very important question of whether or not improper political considerations factored into the decision-making. If he were to conclude that that's what happened, then I think, at that point, we're in a situation we have to assess what else might need to be done to un-ring that bell, if you will. ISSA: Thank you. I yield back. GOODLATTE: The chair recognizes the gentlewoman from Texas, Mrs. Jackson Lee, for five minutes. JACKSON LEE: I thank the chairman. I welcome you, Director, and I thank you for your service. I'm holding in my hand right now the mission of the FBI, which reads, "The mission of the FBI is to protect and defend the United States against terrorists and foreign intelligence threats, to uphold and enforce the criminal laws of the United States, and to provide leadership and criminal justice services to federal, state, municipal and international agencies and partners, and to perform these responsibilities in a manner that is responsive to the needs of the public and is faithful to the Constitution of the United States." Do you adhere to that mission? WRAY: Yes, ma'am. JACKSON LEE: Does that mission include your responding to the political bias and comments of politicians? WRAY:

But it's -- you're right that the inspector general is not second-guessing prosecutorial decisions

and things like that.

I do not think it is part of my responsibility to respond to opinions and biases, if they are out there, by politicians.
JACKSON LEE:
If and forgive me for the time period that I have if Director Comey made a statement that there would be no prosecution against the former secretary of state, would that statement have been reviewed by the Department of Justice?
WRAY:
Well, Congresswoman, I think that how that all that whole decision-making was handled
JACKSON LEE:
But is that let (ph)
WRAY:
is part of what the inspector general is looking at.
JACKSON LEE:
no, is that the protocol? You indicated that you report to the deputy attorney general; he reports to the attorney general. And so, in the normal protocol, a statement that you would've made, or any other FBI director would've made Director Mueller, when he was the FBI director reviewed by that protocol.
Is that the likely protocol?
WRAY:
Likely protocol, sure.
JACKSON LEE:
Let me move on to indicate that it was stated earlier that the FBI that the former secretary disclosed top secrets into e-mails whether that and asked the question whether that should be

investigated. The present president disclosed Top Secret classified information to Russian ambassador and foreign minister in the Oval Office.
Is the FBI investigating those disclosures?
WRAY:
Congresswoman, I wouldn't confirm or suggest the existence of any ongoing investigation.
JACKSON LEE:
Just a few years ago, this committee considered and eventually moved on a obstruction of justice element in an impeachment proceeding. Do you believe yes or no: Can a sitting president commit obstruction of justice?
WRAY:
Congresswoman, legal questions, especially legal questions regarding impeachment, are not something that I'm equipped to answer in this setting
JACKSON LEE:
This is separate and
WRAY:
as an FBI director.
JACKSON LEE:
this is separate and apart from impeachment. Do you believe that a sitting president can commit an obstruction of justice?
WRAY:
That also is a legal question, and I would defer to the lawyers on that one. I'm a now-reformed lawyer as an FBI director.

JACKSON LEE: I understand. Is it your opinion that, if a sitting president commits a crime, then it becomes a non-crime? WRAY: I'm sorry. I couldn't hear you. JACKSON LEE: If a sitting president commits a crime, does it become a non-crime? WRAY: Same answer. JACKSON LEE: Let me move on to the idea of the quote from the president of the United States. And do you believe that the FBI's reputation is in tatters? What impact did that have on the FBI? And my -- if you would move quickly, I know you gave a long assessment, but what impact would that have on the FBI, if that is a statement made nationally, and also to the world -- that the FBI is in tatters? WRAY: Congresswoman, the agents, analysts and staff of the FBI are big boys and girls. We understand that we will take criticism from all corners, and we're accustomed to that. I believe, personally, based on what I've seen, that our reputation with our counterparts in law

enforcement, federal, state and local; our counterparts in the intelligence community; our counterparts around the world; the communities that we serve; the victims that we protect; the judges we appear before; the scientists we interact with in the laboratory services space, for

example...

JACKSON LEE:

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I have another question.
WRAY:
my experience has been that our reputation is quite good.
JACKSON LEE:
Thank you very much.
I want it to (ph) be assured to the American people that Andrew Weissmann and Peter Strzok, who were removed from their posts that that will not sabotage Bob Mueller's investigation to Trump campaign's collusion with Russia their removal.
WRAY:
I'm sorry. I
JACKSON LEE:
That their removal Peter Strzok and Mr. Weissmann will not sabotage Mueller's investigation into Russian collusion their removal from the investigation.
WRAY:
I'm not aware of any effort by anyone to sabotage or less, even Special Counsel Mueller's investigation.
JACKSON LEE:
Thank you. Let me ask the question on the black identity extremists. You indicated, or we have had some conversations let me indicate to you that a report that was done August 14th, 2017 said that, during the same period of this report, they found that right-wing extremists were behind nearly twice as many incidents, 115, and just over a third of these incidents were foiled, than those who might be considered Islamists or might be considered others.
There is a black extremist identity report. Again, I ask the question, would you see that that

report be clarified? And would you take note of the fact that the convictions dealing with

and less for right-wing?

violence are more for the -- looking for my chart -- are more dealing with Islamists and left-wing

So right-wing extremists are not being prosecuted. Black identity extremists, as declared by the FBI, are in fact subjected to a report. And in -- and, if I might say, a FBI that is not diverse, that I know that we would like to work on to make diverse -- but they are not being prosecuted the way -- right-wing.

Right-wing has the lowest amount of prosecutions in the United States; percent of domestic terror incidents involving federal prosecution, the right wing is the lowest. The left wing is prosecuted 100 percent. Can you explain that?

GOODLATTE:

The time of -- the time of the gentlewoman has expired. The director is permitted to answer the question.

WRAY:

Congresswoman, I'd have -- I'd have to look at the statistics that you saw. I can tell you that we have our -- in our domestic terrorism program, that the last time I looked, we have about 50 percent more white supremacist -- what -- the category that we would call white supremacist investigations than we do in the black identity extremist category.

The other point I would make is that, in all of these contexts in the domestic terrorism arena -that we only investigate if there are three things: one, federal criminal activity -- credible
evidence of federal crime; two, credible information suggesting an attempt to use force or
violence; and three, those things in furtherance of a political or social goal.

If we don't have that, we don't investigate -- it doesn't matter whether they're right-wing, left-wing or any other wing.

JACKSON LEE:

Thank you, Mr. Chairman. I'd like a report back on that question, please. Thank you very much.

GOODLATTE:

The gentleman from Iowa, Mr. King, is recognized for five minutes.

KING:

Thank you, Mr. Chairman. And thank you, Director, for your testimony here today and your service to our country.

I -- a number of curiosities I come here with this morning, as all of us do. And one of them is that, in the FBI interview and investigation of General Flynn -- are there -- are there notes from those interviews, do you know?

WRAY:

Number one, I don't know. But, beyond that, I wouldn't want to comment on a ongoing investigation being run by the special counsel.

KING:

And, in a normal circumstance like that, would you expect there to be notes in any other case?

WRAY:

It is our normal practice to memorialize interviews.

KING:

And do so by notes?

WRAY:

Well, it usually gets reflected in an FBI -- what's called an FBI 302. How agents go from the process of the spoken conversation to the 302 varies. And then there are other settings where it's a different kind of format.

KING:

But, when an agent sits someone down for that kind of interview, notes would be normal. In most cases, would there also be an audio tape recorded?

WRAY:

Actually, I think an audio tape would be unusual.

KING:
Or a videotape would fit that same category as unusual.
WRAY:
Likewise, also unusual.
KING:
Thank you. And but you don't know whether there are they are available for General Flynn? I bring this up because of the interview of Hillary Clinton.
And, when we interviewed some of the members of the former administration that were familiar with the interview the matter, we'll use their word and the let's call it now the investigation of Hillary Clinton and we learned here in this room that there were no notes available to us, that there were no audio and no video available to us, and in fact they had not been made available to the attorney general, Loretta Lynch, and neither had they been made available, or at least reviewed, by former Director Comey.
And it was curious to me that a heavy decision of the one of the highest investigations in the history of this country the people who made the decision on it didn't review the materials. They just simply received the briefing of the people that they had appointed to do the investigation.
I guess I'll ask you you're going to tell me you don't have an opinion on that. Would you conduct similar investigations in a similar manner? Doesn't wouldn't that send off an alarm bell to you, if that were going on within your department today?
WRAY:
Well, I think what I would say is that I think investigations are best conducted by taking appropriate memorialization of an interview. What I will also say is that, in the particular investigation, I think your question goes to whether or not the handling of the investigation was skewed or tainted in some way by improper political considerations. And I think that's what the outside inspector general is looking at and I'm looking forward to seeing what he finds

KING:

And I -- and I believe that the question's already been asked about the principals that were in the room during that investigation, and (ph) one is counsel, and -- at the same time being a subject of the investigation.

I'll pass that along and put some more information out here before this committee. In October of 2015, President Obama referenced the lack of intent on the part of Hillary Clinton -- that she wouldn't jeopardize national security, would never intend to do so.

That was October of 2015. April of 2016, he made a similar statement that Hillary Clinton was an outstanding secretary of state; she would never intentionally put America in any kind of a jeopardy.

We also noticed that the language has been moved from "extreme carelessness" -- or, excuse me, from "gross negligence" to "extreme carelessness." That "carelessness" was also language that President Obama used in his public discussions of the matter.

Now, I'm going to make the point here that it looks to me that the "get out of jail free" card that Hillary Clinton received is rooted clear back in Barack Obama, in his introduction of the word intent, or lack of intent, as a requirement for 18 USC 793(f). And that's been brought up here.

And so I'd ask you again -- surely you've examined the definition and the distinction between "extreme carelessness" and also -- "extreme carelessness" and the "gross negligence" that's within the statute. You're really going to tell us today that you don't have an opinion on that distinction?

WRAY:

"Gross negligence" is the language in the statute, I believe. But I believe, also, that almost anybody who grabbed a thesaurus would say that "gross negligence" and "extremely careless" are pretty darn close to each other.

I will also say that the -- whether or not the handling -- including the handling of the statement that Director Comey issued -- is exactly what the inspector general is investigating, and, I think, as he should. It's better that the FBI not -- FBI not investigate itself on this, and I think that's what the inspector general is doing. So that would be my response to that question.

KING:

And I thank you. And it does do a clarification to your earlier response, and I appreciate that.

I'd like to follow up with this: that there's a report that there are investigations going on on 27 potential leakers within the FBI. And I want to also ask if the unmasking that was ordered by the executive branch of government that took place shortly before the election -- I'll say September, October of 2016, and on throughout the transition period until the inauguration of -- and even

beyond, perhaps -- of President Trump -- has any investigative committee in Congress had access to the full list of those unmasking requests? And how much of that is classified?

WRAY:

Congressman, I don't know what access committees have had to unmasking requests -- specific committees. I'd be happy to have my staff take a look at that. I will say that unmasking requests get made not just by parts of the intelligence community, but by -- congressional committees themselves often ask for unmasking, so that they can digest the information.

A lot of times, concerns -- legitimate concerns about unmasking are really almost more about, to me, a problem that I take very seriously, which is leaks of information. And that's something that -- we have, now, a dedicated unit, since I've taken over, that's focused specifically on that.

We've also recently reissued -- not reissued, issued -- a new media policy that clamps down and tightens up the rules about interaction with the media inside the FBI. And that's something that I think we take very, very seriously.

KING:

Well, I thank you. I'll just say, in conclusion, we know as much about the conversation on the Phoenix tarmac between President Clinton and Loretta Lynch as we do about the interview of Hillary Rodham Clinton within the FBI.

GOODLATTE:

Time of the gentleman has expired.

KING:

Thank you. I yield back.

GOODLATTE:

The chair recognizes the gentleman from Tennessee, Mr. Cohen, for five minutes.

COHEN:

Thank you, Mr. Chair. Director Wray, we in Memphis have been blessed with good FBI agents, and I believe the FBI has an outstanding reputation, and has, probably, other than some flaws with J. Edgar Hoover, historically had a great reputation.

In Memphis, I had a situation where there was a county employee named Mickey Wright, who was murdered. The FBI worked on that case and saw to it that justice was found, and he got a life sentence. And it was the FBI that did that.

They recently arrested a man named Castelo -- Lorenzo Castelo -- and found -- got him for 15 pounds of meth, which is the drug you ought to be looking at -- drugs like opioids and meth and crack and heroin, not so much cannabis -- and \$400,000, and had 10 people arrested and convicted.

And they also got Larry Bates, who swindled a lot of people in church from -- out of millions and millions -- \$68 million, and got him 22 years in jail. So the FBI's done a great job.

After the president said, which I disagree with, that the FBI was in tatters, Director Comey tweeted, "I must let the American people know the truth. The FBI's honest. The FBI's strong, and the FBI is and always will be independent." Did you welcome his tweet, and do you agree with it?

WRAY:

Well, I believe that description of the FBI aligns with my own description. As my folks would tell you, I'm not really a Twitter guy. I've never tweeted, don't have any plans to tweet and don't really engage in tweeting.

COHEN:

You've been at the FBI long enough to know the reputation of previous directors. What was the reputation of Director Comey within the agents of the FBI?

WRAY:

Well, my experience with Director Comey -- it was that, when I worked with him, which was back in the early 2000s -- was that he was a smart lawyer, a dedicated public servant and somebody that I enjoyed working with. We haven't stayed in as much touch over the last several years, and of course, there's now the ongoing investigation, but my experiences have all been positive.

COHEN:

Do you know the reputation of Director Mueller within FBI agents, in FBI lore (ph)?
WRAY:
My experience has been that Director Mueller is very well- respected within the FBI.
COHEN:
When you were interviewed by President Trump, and you were interviewed by President Trump before you were appointed, was that is that not the case?
WRAY:
Yes. Not exclusively, but yes.
COHEN:
What questions did he ask you?
WRAY:
My recollection is the conversations were more about my background, and in particular, we talked a lot about my desire to join the war on counter terror, as somebody who had been in the Justice Department and in FBI headquarters on the day of 9/11 itself, and having met I talked a lot about my interaction with the victims of 9/11 in my last law enforcement experience and my desire to return to public service to keep people safe.
COHEN:
He didn't ask you any questions about Russia or about Mr. Comey or Mr. Mueller, or any other questions like that at all?
WRAY:
No.
COHEN:

Good. Very good.
The FBI concentrates on situations that presently are a threat to United States, or to safety of the public. Is that correct?
WRAY:
Yes.
COHEN:
So the issues concerning the current president would be more important to you than the issues concerning the person who he defeated, who is now in not in office. Would that be an accurate assessment?
WRAY:
Well, I'm reluctant to try to compare one matter to another in that way. What I would tell you is that we take any effort to interfere with our election very seriously. I take any effort to mishandle classified information very seriously.
COHEN:
Well, thank you.
Benjamin Franklin said that he gave the American people a republic, if you can keep it. You are the heir to the legacy of Griffin Bell, having worked at King & Spalding. And you have an excellent reputation, if you can keep it. You will be tested. I feel you will rise to the task, but you will be tested.
I yield back the balance of my time.
GOODLATTE:
Chair thanks the gentleman.
Recognize the gentleman from Ohio, Mr. Jordan, for five minutes.
JORDAN:

Thank you. Director, was Agent Peter Strzok the former deputy head of counterintelligence at the FBI?
WRAY:
I don't remember his exact title, but I believe that's correct.
JORDAN:
And he's the same Peter Strzok who was a key player in the Clinton investigation, the same Peter Strzok who interviewed Cheryl Mills, Huma Abedin, participated in the Clinton Secretary Clinton's interview? And he's also the same Peter Strzok who now we know changed Director Comey's exoneration letter, changed the term "gross negligence," which is a crime, to "extreme carelessness"? Is that the same guy?
WRAY:
Well, Congressman, I don't know every step that the individual you mentioned was involved in. But certainly, I know that he was heavily involved in the Clinton e-mail investigation.
JORDAN:
And he thank you. And he and is it is this the same Peter Strzok who helped was a key player in the Russian investigation, and the same Peter Strzok who was put on Mueller's team Special Counsel Bob Mueller's team?
WRAY:
I certainly know that he was working on the special counsel's investigation. Whether or not he would be characterized as
JORDAN:
And the same
WRAY:
a key player on that investigation, that's really not for me to say.

JORDAN:
OK and the same Peter Strzok that, we learned this past weekend, was removed from the special counsel team because he exchanged text messages with a colleague at the FBI that were - displayed a pro-Clinton bias is that accurate?
WRAY:
Yes.
JORDAN:
Talking about the same guy? OK.
WRAY:
Yes.

Well, here's what I'm not getting: Peter Strzok is selected to be on Mueller's team, after all this history, put on Mueller's team, and then he's removed for some pro-Clinton text messages. I mean, there are all kinds of people on Mueller's team who are pro-Clinton. There's been all kinds of stories -- PolitiFact reported 96 percent of the top lawyers' contributions went to Clinton or Obama.

But Peter Strzok, the guy who ran the Clinton investigation; interviewed Mills, Abedin; interviewed Secretary Clinton; changed "gross negligence," a crime, to the term "extreme carelessness;" who ran the Russian investigation; who interviewed Mike Flynn gets put on Mueller's team, and then he gets kicked off for a text message that's anti-Trump.

JORDAN:

If you kicked everybody off Mueller's team who was anti-Trump, I don't think there'd be anybody left. So here -- there's got to be something more here. It can't just be some text messages that show a pro-Clinton, anti-Trump bias. There's got to be something more. And I'm trying to figure out what it is.

But my hunch is it has something to do with the dossier. Director, did Peter Strzok help produce and present the application to the FISA court to secure a warrant to spy on Americans associated with the Trump campaign?

WRAY:

Congressman, I'm not prepared to discuss anything about a FISA process in this setting.

JORDAN:

Not a -- we're not talking about what happened in the court. We're talking about what the FBI took to the court, the application. Did Peter Strzok -- was he involved in taking that to the court?

WRAY:

I'm not going to discuss in this setting anything to do with the FISA court applications.

JORDAN:

Well, let's remember a couple of things, director, and I know you know this. We've all been made aware of this in the last few weeks. Let's remember a couple of things about the dossier.

The Democratic National Committee and the Clinton campaign, which we now know were one and the same, paid the law firm, who paid Fusion GPS, who paid Christopher Steele, who then paid Russians to put together a report that we call a dossier, full of all kinds of fake news, National Enquirer garbage.

And it's been reported that this dossier was all dressed up by the FBI, taken to the FISA court and presented as a legitimate intelligence document, that it became the basis for granting a warrant to spy on Americans.

And I'm wondering -- I'm wondering if that actually took place. It sure looks like it did, and the easiest way to clear it up is for you guys to tell us what was in that application and who took it there.

WRAY:

Congressman, our staffs have been having extensive interaction with both intelligence committees on our interaction with the FISA court, and I think that's the appropriate setting for those questions.

JORDAN:

Here's what I think, Director Wray. I think Peter Strzok, head of counterintelligence at the FBI; Peter Strzok, the guy who ran the Clinton investigation, did all the interviews; Peter Strzok, the guy who was running the Russian investigation at the FBI; Peter Strzok, Mr. Super Agent at the FBI -- I think he's the guy who took the application to the FISA court.

And if that happened -- I mean, think -- if this happened, if you had the FBI working with a campaign, the Democrats' campaign, taking opposition research, dressing it all up and turning it into an intelligence document and taking it to the FISA court so they could spy on the other campaign -- if that happened, that is as wrong as gets.

And you know what? Maybe I'm wrong. You could clear it all up. You could clear it all up for all of us here -- all the Congress who wants to know, and frankly, all of America who wants to know -- you could clear all up by releasing (ph) -- we sent you a letter two days ago -- just release the application.

Tell us what was in it. Tell us if I'm wrong. But I don't think I am. I think that's exactly what happened. And, if it did, it is as wrong as it can be, and people who did that need to be held accountable.

WRAY:

Congressman, we will not hesitate to hold people accountable after there has been an appropriate investigation, independent and objective, by the inspector general into the handling of the prior matter. And, based on that, I will look at all available remedies, depending on what the facts are when they are found.

As to the access to the dossier, that's something that is the subject of ongoing discussion between my staff and the various intelligence committees.

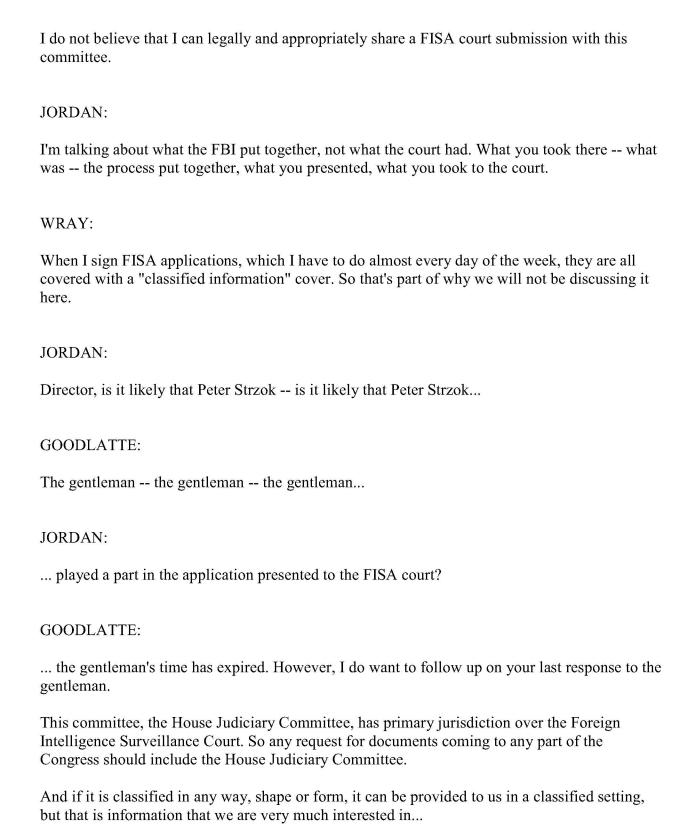
JORDAN:

There's nothing prohibiting you, Director. Is there anything prohibiting you from showing this committee the -- what was presented to the FISA court -- that -- the application you all put together at the FBI, that was presented to the FISA court? Is there anything preventing you from showing us that?

GOODLATTE:

The time of the gentleman has expired. The director can respond.

WRAY:



JORDAN:

Mr. Chairman
GOODLATTE:
and very much want to receive.
JORDAN:
the discussion the chairman yeah, I don't think there's anything prohibiting the FBI from giving us what they used to put together what was taken to the FISA court. That's what we're asking for, and there is nothing prohibiting him from doing that.
GOODLATTE:
I don't think there is, either. The time the gentleman has expired, however. You care to respond to that, Director Wray?
WRAY:
No, I think I've covered.
GOODLATTE:
The chair recognizes the gentleman from Georgia, Mr. Johnson, for five minutes.
JOHNSON:
Thank you.
Director Wray, you've led a distinguished career as an assistant U.S. attorney for the Northern District of Georgia, Atlanta we're homeboys on that part Justice Department associate, deputy attorney general, even serving as an assistant attorney general heading up the criminal division of the entire Justice Department.
And then, as a litigation partner at the international and premier law firm of King & Spalding, you headed up the special matters and government investigations practice group, which involved sophisticated government investigatory matters, and involving your clients. And, also, you

even represented Governor Christie during the Bridgegate scandal -- successfully, I presume at

this point.

So you've had a long career in criminal law and in matters involving government, and I find it hard to believe that you have not pondered the question of whether or not a president can be guilty of obstruction of justice. You have pondered that question, have you not?
WRAY:
To be honest, it's really not something I've pondered. That is a question that involves complicated questions of separation of powers, and I have
JOHNSON:
Well, do you
WRAY:
this committee won't be shocked to learn, quite a lot on my plate as it is. So I don't have a whole lot of time to do a lot of pondering.
JOHNSON:
well, let me just let me just ask you the question. Is it your belief that a sitting president can be guilty of obstructing justice?
WRAY:
That's a legal question that I haven't tried to evaluate.
JOHNSON:
All right. Thank you, sir.
Within the last few days, the House Intelligence Committee has requested documents from you and other government officials from the so-called Steele dossier.
To date, you and other government officials have refused to comply with the production of these documents. Why have you failed to produce these documents?

WRAY:

I -- we are having extensive interaction with multiple committees about these issues. They involve complicated questions, not just of classification; they also affect ongoing investigations, in particular, the special counsel's investigation.

And, in particular, in many instances, we are dealing with very, very dicey questions of sources and methods, which is the lifeblood of foreign intelligence and for our liaison relationships with our foreign partners.

JOHNSON:

Thank you.

Director Wray, earlier this year, the FBI opened an investigation into the vulnerabilities of the state of Georgia's election systems. Thereafter, Georgia citizens filed a lawsuit over the security, or lack thereof, of Georgia's election systems, which were then outsourced by Georgia's secretary of state to the Center for Election Systems.

Four days after that lawsuit was filed, Georgia election officials wiped clean or deleted the election data on CES servers. One month later, two additional servers were wiped clean.

So evidence that is critical to the issues raised in the lawsuit and to the FBI investigation, perhaps -- that information has been destroyed. Can you confirm that the FBI obtained copies of the data on Georgia's election servers prior to the data being destroyed by Georgia election officials?

WRAY:

Congressman, I can't discuss what the FBI may or may not have obtained in the course of any particular investigation in this setting.

JOHNSON:

Can you confirm that there is an ongoing investigation into this matter?

WRAY:

Again, I don't want to confirm or deny -- it's important that I put both those words in there -- the existence of a specific investigation.

JOHNSON:

Would you be willing, upon your investigation's completion, if there is an investigation -- would you be willing to provide this committee with an update on this issue?

WRAY:

If there is information that we could appropriately share on the topic that you're answering (sic) about, I'd be happy to see if there's something we can do to be helpful and responsive to the committee.

JOHNSON:

Thank you, sir.

The Department of Justice recently admitted in court that they are treating the president's disturbing and combative tweets as, quote, "official statements of the president of the United States," end quote.

Considering the DOJ's position and the president repeatedly demanding that the FBI investigate his political opponents, do you consider these tweets to be orders that the FBI must follow?

WRAY:

That's a legal question, and I'll be guided by the lawyers on that one.

JOHNSON:

So have your lawyers given you an opinion as to whether or not the president's tweets are official statements?

WRAY:

Well, without discussing, you know, attorney-client communications, I'm still following the ordinary course of business in terms of what orders we follow.

JOHNSON:

Sir, you've given me every objection for not answering the questions that is in the books, and I appreciate it. Thank you so much. I yield back.

GOODLATTE:

The time of the gentleman has expired.

The chair recognizes the gentleman from Texas, Mr. Poe, for five minutes.

POE:

Thank you, Chairman. Thank you, Mr. Wray, for being here.

My background -- I was a former prosecutor. I was a judge for 22 years. During that time in the criminal courts, I had always thought that the FBI had a stellar reputation. In the last few years here in Congress, I don't have that belief any longer, and I think your predecessor did a lot to damage the reputation of the FBI. I don't think that the FBI has come back around with that stellar reputation, and that's unfortunate.

You gave us lots of statistics in the opening statement that -- you made about what the FBI is doing. The -- I want to talk about FISA, secret courts issuing secret warrants, supposedly to go after terrorists overseas.

A recent Washington Post article made the comment, or stated that, when information is seized on bad guys, there is the so-called seizure -- or the seizure of information that belongs to Americans -- inadvertent, as it's called by the legal community.

And in that database are Americans and non-Americans. And the Washington Post article quote (sic) says, "Many of them in this database were Americans; 90 percent of the account holders whose communications were collected under 702 were not the intended targets." And about half of the surveillance files were on Americans.

So you had this database that's supposed to go after the bad guys, and you get that information. But, inadvertently, you pick up all of this information on Americans who have nothing to do with terrorism. How many times has this database been queried -- I call the word "searched" -- to find out if there are identifiers on Americans? How many times has the FBI or the intelligence agency or government done that?

WRAY:

Congressman, I don't -- I don't have numbers for you here today. I will tell you that database that we're talking about is not bulk collection on anyone, first. Number two, it is a database of foreigners reasonably believed to be located overseas for foreign intelligence purposes. That's what's collected by the NSA...

POE:
Let me interrupt you
WRAY:
the FBI
POE:
reclaiming my time. The but I'm talking about the inadvertent seizure of information based on this idea we're going after terrorists. How many people have been queried, searched in that big database? That's my question.
WRAY:
And, Congressman, I don't have the statistics for you. I can give you one number that may be helpful to you in answering your question, which is that of what the NSA collects, that the FBI only receives much less queries against about 4.3 percent of what the NSA collects.
And the individuals that are incidentally collected the U.S. person information that's incidentally collected are people who are in communication with foreigners who are the subject of foreign intelligence investigations. So, like an ISIS recruiter if there's a U.S. person picked up, that person would've been in e-mail contact, for example, with an ISIS recruiter.
POE:
I understand. I understand that. I'm not talking about terrorism. I'm talking about the inadvertent where there's a communication with an American, and that American's information is seized and then later searched by whether it's the intelligence community or the FBI. The Washington Post said 90 percent of those seizures were on non-terrorists. Do you agree or disagree with that statistic?
WRAY:
I haven't reviewed the Washington Post's article.
POE:

So you don't. We've asked -- this committee has asked, for a long time -- to give us that information, because we are now coming up with FISA reauthorization. My opinion is that the FBI and intelligence service is back-walking that information, because they know FISA comes up at the end of this year, and then Congress should just reauthorize without knowing how many Americans are searched.

The right of privacy in the Fourth Amendment is guaranteed. I'm sure you believe this, but it is being abused and stolen by government, in this situation on what's happening to Americans.

And the search of that database, whether it's the first query, which is a search, or a later specific search of that communication, is being done in secret by our government, and Congress, Judiciary Committee, is entitled to that information. And I will disagree with what you said about, "Well, it's classified. I can't tell you that." That's ridiculous.

Congress is entitled, members of Congress are entitled to every classified piece of information that is in your possession. That is our position; that is our right as members of Congress. So government can't have classified information and say, "We're not going to tell you because it's classified." We're entitled to it in some type of setting.

So I totally disagree with you on that. I hope you can provide us that information before the -- we reauthorize FISA; otherwise, I'm going to vote against FISA. And I yield back to the chairman.

WRAY:

Mr. Chairman, may I briefly respond?

GOODLATTE:

The director may respond.

WRAY:

First off, as to classified information, we are engaged with the intelligence committees, and we share classified information with the intelligence committees all the time. And then, under certain circumstances, as the chairman noted, we are also sharing classified information with the authorizing committees, like the two judiciary committees.

As to the question of abuses, every court -- every court to have looked at the way in which Section 702 is handled, including the querying, has concluded that it's being done consistent with the Fourth Amendment, as has the Independent Privacy and Civil Liberties Oversight Board.

And there has been no abuse found in the 702 program, despite oversight by the inspector general, multiple sections of oversight within the executive branch, oversight by the federal FISA court and oversight by the intelligence committees.

POE:

And I disagree with the secret courts on their interpretation of the Fourth Amendment, as does many other members of Congress.

Thank you, Mr. Chairman.

GOODLATTE:

Chair thanks the gentleman (ph). His time has expired.

I just want to reiterate, as with the other request, this is a reasonable request by the gentleman from Texas. It has been made in varying forms by this committee in a bipartisan way, in the past, and we have not yet received the answers to those questions.

So I would again point out that this committee has oversight responsibility over both the intelligence unveiled (ph) in court and the Federal Bureau of Investigation, and we have a very nice SCIF where this all can be discussed in a classified setting, where documents can be examined in a classified setting, and we think you need to be forthcoming on this.

So thank you, Director.

The chair recognizes the gentleman from Florida, Mr. Deutch, for five minutes.

DEUTCH:

Thank you, Mr. Chairman.

Director, I thank you for being here today and thank you for your service to our country.

Director, as you know, what separates the United States from oligarchies and despots around the world is the American commitment to the rule of law. That means that powerful people don't get to write their own rules, means that the president doesn't direct law enforcement to target political enemies or to go easy on political friends. And it means that judges, police officers and the FBI agents are not intimidated by demands or tweets or whispers coming out of the White House.

Director Wray, I would commend your commitment to the independence of the FBI and the rule of law. As to the president's tweet over the weekend that the reputation of the FBI's in tatters, the

worst in history, which, sadly, seems to be shared by many of my colleagues on this committee, I would like to just take a moment to thank the women and men of the FBI for their hard work, for the work they do investigating threats of terrorism, public corruption, organized crime, cyber crime, white-collar crime. I'd like to thank you and them for the work they do to combat violent crime. And I'd like to thank you for the work they do to enforce our civil rights laws.

I also want to thank your agents that are working with the Mueller investigation, an inquiry that has already delivered serious charges against the president's campaign manager and a guilty plea from the president's national security adviser.

Back in September, you reviewed the classified reports compiled by U.S. intelligence agencies that concluded that Russia interfered in the 2016 election and tried to tilt it in Donald Trump's favor. You said at the time, "I have no reason to doubt the conclusions the hard- working people who put that together came to." You still -- you still have that view?

WRAY:

I still believe fundamentally that the conclusions of the ICA are accurate.

DEUTCH:

And the FBI continues to focus on the threats posed by Russian interference in future elections?

WRAY:

Yes, as I was mentioning earlier, we are -- special counsel, of course, is looking backwards. We're looking forward. We're focused on trying to make sure that any effort by any foreign power to interfere with our elections is something that we can try to get in front of, investigate and prevent, as best we can.

DEUTCH:

When the special counsel looks backwards on what happens, it's important that the special counsel be able to do his job. There is legislation -- bipartisan legislation that's been introduced that -- as I understand, it codifies existing DOJ regulations that special counsel may only be removed for misconduct, dereliction of duty, incapacity, conflict of interest or other good cause. Is that how you understand the DOJ regulations?

WRAY:

I'm not intimately familiar with the exact wording of the regulations, but I have no reason to doubt your summary of them.

DEUTCH:

Which is why, Mr. Chairman, we ought to be doing exactly that. We have sat here for almost two hours, and have heard nary a word from my Republican colleagues about Russian interference in our election, or about the efforts of the Mueller investigation to get to the bottom of it.

And, based on the talking points that we've heard that sound so eerily familiar to those coming from the president of the United States, it is more apparent than ever -- of this (ph) bipartisan legislation to protect the special counsel, to ensure that the special counsel can do his job and can pursue, ultimately, the truth wherever it takes him. It has to be brought up in this committee, must be.

I would urge my colleagues who are as concerned about the Russian interference in our last election and the potential Russian intervention in future elections, who are as concerned as Director Wray and the FBI and so many of us are, to let us protect the special counsel.

Director Wray, you also said in September, and I quote, that you said that you "saw no evidence of White House interference in the probe," the Mueller probe. And you said, quote, "I can say very confidently that I have not detected any whiff of interference with that investigation," close quote. I want to make sure that that continues to be your position.

WRAY:

Certainly, Congressman. As I sit here today, I am not aware of -- since I've been on the job, there's been no effort that I've seen going forward here -- any effort to interfere with Special Counsel Mueller's investigation.

DEUTCH:

Director Wray, if the president of the United States fired Special Counsel Mueller, would that constitute interference with Special Counsel Mueller's investigation?

WRAY:

You know, I'm not going to engage in a discussion of hypotheticals. It would absolutely depend on the circumstances surrounding the firing.

DEUTCH:

If the -- if the president fired the special counsel without satisfying any of the requirements that currently are in DOJ regulations, without doing it for a cause, but only because he was concerned about the special counsel getting too close to him, or his closest advisers, or his family, I think the answer to that is clear to anyone who is watching today, and that's exactly why at this moment, Mr. Chairman, we have to protect the special counsel.

There is legislation to do it. History is being written at this moment, and what it's seeing is efforts to obscure the very reality that's taking place in this country, which is the president's efforts to try to avoid the special counsel getting too close to him. We can do something about that, to protect this investigational on behalf of the American people, and I do hope that we will.

And I yield back.

GOODLATTE:

Time of the gentleman has expired.

The chair recognizes the gentleman from South Carolina, Mr. Gowdy -- I'm sorry -- the gentleman from Texas, Mr. Gohmert, is recognized for five minutes.

GOHMERT:

Thank you, Mr. Chairman. And, Director, we appreciate you being here. I was so thrilled when I first got to question Director Comey. I didn't realize what direction that would take. But you are taking an FBI department that was weakened by Mueller's time, and I'm not asking for comment on that.

But I know, for his -- from his five-year "up or out" policy, as the Wall Street Journal pointed out, he got rid of thousands and thousands of years of experience, I came to believe, because he wanted younger people that were more yes-men.

And so he got rid of people that could've advised him against some of the poor decisions he made, whether it's squandering millions of dollars on software that didn't work and wouldn't work -- and people he got rid of knew that -- but all kinds of things.

And I came to understand, as a young prosecutor who knew the law better than some of the older lawyers, that there is something to be gained from experience. And so we lost thousands of years of experience, and Comey took over a weakened FBI because of what Mueller did, and Mueller made a lot of mistakes he wouldn't have otherwise.

So that was rather sad. But I want to -- and I'll be glad to have my friend across the aisle know that I am outraged by the government's collusion with Russia.

I was outraged. I was -- I didn't think President Bush and our State Department went far enough in condemning the invasion into Georgia by Putin and the Russians, but they did take some strong actions to make known their discomfort and their upset over that.

And of course the response by the Obama administration was to send over a plastic reset button with the wrong Russian word on it. But they made clear nonetheless that "We're not bothered by your invasion of Georgia. You can invade anybody you want."

That was the message the Russians took, and I am really outraged at the allowing of Russia to buy our uranium, even though the FBI and the Justice Department had already found out that they were trying to get our uranium illegally with bribes and violating the law, and that has not been addressed. So yes, I am outraged.

But, as you're aware, Deputy Director McCabe was involved in highly charged political cases that have been controversial due to his political leanings. So I want to ask you if you are aware of any other senior FBI executives that are aligned with McCabe's political views.

Yes or no: are you aware of any other senior FBI executives?

WRAY:

I'm not aware of any senior FBI executives who are allowing improper political considerations to affect their work with me right now.

GOHMERT:

OK. Let me ask you this -- I'm going to ask about specific executives, some of whom have been promoted by McCabe within the last few years. So my question to you, Director, is, are you aware of any of the following people openly aligning themselves with the political bias expressed by McCabe, or openly speaking against this administration?

First, Carl Ghattas -- yes or no?

WRAY:

My experience with Executive Assistant Director Ghattas has been very positive, and he's been a complete professional in all my interaction with him.

GOHMERT:

But have you are you aware of him openly aligning him selves with the political bias that McCabe expressed?
WRAY:
Well, I'm going to quarrel a little bit with the premise of your question about Deputy Director McCabe.
GOHMERT:
All right.
WRAY:
As far as but as far as Executive Assistant Director Ghattas, as I said, he's been a complete professional, and by that I mean to include apolitical
GOHMERT:
Have you heard him open
WRAY:
in his interaction with me.
GOHMERT:
align himself with political bias against the Trump administration?
WRAY:
No.
GOHMERT:
Mike McGarrity?

WRAY:
No.
GOHMERT:
Same question, and I'll take McCabe out of it. Are you aware of him openly aligning himselves with political bias against the Trump administration?
WRAY:
No.
GOHMERT:
Josh Skule?
WRAY:
No.
GOHMERT:
Larissa Mentzer?
WRAY:
I actually don't know who that is.
GOHMERT:
OK. All right. Thank you. Fair enough.
Brian Parman?
WRAY:

GOHMERT:
Thank you.
And I know you appointed Brian Parman to the New York field office, counterterrorism division, so it is important that we have fair-minded people.
And there's never been a requirement that anybody not be able to vote or have political beliefs, just that they not let them affect their out their output. So I would encourage well, I got a lot more to ask, but thank you for your work.
I want to be your best friend, as long as you stay on the straight and narrow. Thank you, Director.
WRAY:
Thank you, sir.
GOODLATTE:
The chair recognizes the gentlewoman from California, Mrs. Bass, for five minutes.
BASS:
Thank you very much, Mr. Chair, and thank you, Mr. Director, for being here with us today. And I also want to thank you for the time that you spent, a week or so ago, with representatives of the Congressional Black Caucus, following up on the black identity extremists. And I would like to ask you questions following up from that meeting.
We raised a number of concerns, one of which the idea that that document was distributed to law enforcement nationwide, and also the concern that the message that that sends to many local law enforcement agencies and how you distinguish between what might be problematic behavior, and also what is people just exercising their First Amendment rights.
And so one of the questions that we asked you that I wanted to follow up on is if you've learned any more about what criteria, evidence, methodology that was used to even come up with that category of black identity extremists?

No.

WRAY:

Congresswoman, as I think I may have mentioned in our meeting, the analysis that occurred there involved a which is our standard practice for one of these products, and we issue them across all of our various program categories is to take both so-called open source information, which is what the intelligence community would call it
BASS:
Right.
WRAY:
and our own ongoing investigations, of which there are many, and mesh them two (ph) together with other information and try to make sure that the information that we're speaking on - that those two things align.
As to your concerns, and we discussed them, and I hope I found the conversation constructive, hearing your concerns
BASS:
Yes.
WRAY:
and I hope you did, too we take respect for the First Amendment very seriously. And, in this context, as in every other domestic terrorism context, we want to be very clear with people and all the American people that we do not investigate rhetoric, ideology, opinion
BASS:
Right.
WRAY:
no matter how who might consider it extremist. What we do investigate is when rhetoric, ideology, opinion takes that next step into the category of federal crime, and in particular, violence.
BASS:

Yes, exactly. And I did find our conversation constructive. There did seem to be several things that I know you were going to follow up on. And so you were clear about the three categories that led -- that were reasons for investigation.

And one of the things that I mentioned to you is the difference -- and we talked about this -- the difference between an investigation and surveillance. So you have the surveillance activity that may or may not lead to an investigation.

And so what a number of activists are complaining about around the country is the increase of surveillance, being visited by FBI agents, having FBI agents come to their house, leaving their business cards. And so that, you know, was a concern. And what was that really based on?

So these are activists that are protesting because of community police relations, because of killings that might have happened, a variety of reasons. Some of this is -- it might be the, you know, protests that have taken place in Baltimore and several of the cities around the country.

And so I want to know if there's any additional information that you have found from that. What is happening in your offices around the country, where activists are complaining of this?

WRAY:

I have -- after our meeting, I did farm out a whole number of follow-up questions to people. I will confess that I've been fairly busy lately and have not yet gotten the results of those. But we will continue to look into those questions.

BASS:

OK. We really need to do that, because -- let me just explain to you that one of the things that all of us would like to take place in our communities is for our communities to cooperate with law enforcement. But, at this point in time, to have FBI agents come by people's house after peaceful demonstrations -- I know I can't recommend that they speak to the FBI.

I have to tell them that they can't speak to the FBI because, if you do say something and you innocently say something that might not be true, then that person feels as though they might be entrapped, because they could be -- they could be charged with lying to an FBI agent. And so to find the information out as soon as possible, I think, is really important. I want our community to participate, but we can't participate if it's not really clear where the FBI is coming from.

So many organizations have called for the withdrawal of the BIE designation, in particular, NOBLE, which is the National Organization of Black Law Enforcement Executives. And so, in light of the public outcry, including from law enforcement, I want to know if part of the follow-up from our meeting is if you are considering retracting that category of Black Identity Extremists and then sending out clarification to law enforcement around the country that that category really doesn't exist.

WRAY:

I think what we're doing right now is what we would normally do with any intelligence assessment, which is we continue to evaluate the data as it rolls in. The intelligence assessment in question was a snapshot in time. And, as we get more information that comes in from all quarters, considering all sorts of information, I expect that we will update that information in an appropriate way. And, depending on what the information shows, it could be anything from a reaffirmance, to a retraction, to a clarification. It just depends on what the information shows...

BASS:

OK.

WRAY:

But the one thing we will not do is withdraw intelligence assessments based on public outcry. I'm sure you can understand why that's not an approach that, ultimately, will stand (ph)...

(CROSSTALK)

BASS:

OK. Well, I want to continue to be in contact with you for this, because I think one of the points that we made to you, and I really hope you take it seriously, is the harm that that document is causing.

Because what that says -- it sends a chill to activists around the country. And my big concern is that local law enforcement will misinterpret that and will clamp down on people exercising their First Amendment right.

GOODLATTE:

Time of the gentlewoman has expired.

The chair recognizes the gentleman from South Carolina, the chairman of the Oversight and Government Reform Committee, Mr. Gowdy, for five minutes.

GOWDY:

Thank you, Chairman Goodlatte.

Director Wray, somewhere today, a group of our fellow citizens will be asked if they can be fair, impartial, free of bias before they sit in judgment of others on a jury, even in the smallest of courtrooms, where there are nothing but empty seats and no television cameras.

Somewhere today, those selected to sit in judgment of their fellow citizens will be told that they must wait until the very last witness testifies and the last piece of evidence has been introduced before they can even begin to deliberate on an outcome.

So if our fellow citizens should be impartial and free of bias, and if our fellow citizens must wait until the last piece of evidence is introduced, the last witness is called, before they can reach a verdict, a conclusion, an outcome, then I don't think it's asking too much that the Department of Justice and the FBI do the same thing.

There is no member of Congress who holds the department and the bureau in higher esteem than I do. There are others who hold you in high esteem, but I would take a second place to no one, and I have defended the department and the bureau when, frankly, it was pretty damn lonely to do so.

When my Democrat friends were asking that Jim Comey be prosecuted for a Hatch Act violation, about this time last year -- they now want him canonized, but this time last year, they wanted him prosecuted for a Hatch Act violation -- when your predecessor sat right where you're sitting and was embroiled in a fight with this little tiny startup company called Apple, I was on the side of the bureau.

When there are calls for special counsel, even today, I reject them, because I trust the women and men of the Department of Justice and the bureau, the professionals that we hired, to do their job. And the vast majority of line prosecutors and line agents are exactly what you described in your opening statement. They are exactly what you described.

But, unfortunately, the last two years have not been good years for the bureau, and they have not been good years for the department. We had an attorney general meet with the spouse of a target of an investigation on the tarmac and ask that an investigation be called something other than an investigation, but be called a "matter."

We've had an attorney general recuse himself from the largest, most significant investigation currently in his office. We had the director of the FBI appropriate a major charging decision away from the Department of Justice, because he was concerned that the public wouldn't have confidence if the Department of Justice handled that decision themselves.

We had an FBI director write two politically volatile letters, weeks before an election. We had an FBI director memorialize conversations he had with the president of the United States because he didn't trust the president's recall of those conversations.

And I think what frustrates some folks is, when Director Comey wanted special counsel for President Trump, he leaked one of those memos. When he didn't have confidence in Loretta Lynch, we didn't hear a word about it. There were no leaks that prompted special counsel when he didn't trust Loretta Lynch. There were leaks when he decided he didn't trust President Trump.

We've had an acting A.G. fired. We've had the director of the FBI fired. And we can't manage to find prosecutors who haven't donated to presidential candidates. Out of all the universal prosecutors that you used to work with and I used to work with and Johnny Ratcliffe used to work with, we can't find a dozen that haven't donated to major political candidates.

And now we have Special Agent Strzok. It was the inspector general, not the Department of Justice, not the bureau, who found these texts. It was the inspector general, and I share your confidence in his objectivity. I share it.

But it shouldn't have been the inspector general that had to bring this to our attention, 12 months after it happened. And that same agent is the one who reportedly interviewed Secretary Clinton in an interview that you and I have never seen conducted that way before.

To have potential witnesses and potential targets sit in on a witness interview -- I appreciate your professionalism and your unwillingness to want to say how unprecedented that is, so I'm not going to ask you -- I'll just tell you, it's unprecedented.

And that same agent is alleged to have been the one that changed the language. You're right, they are synonyms -- "extremely careless" is a synonym for "grossly negligent," which begs the question, why change it?

But you and I know why it was changed. It was changed because the statute says "grossly negligent," and if you're not going to charge someone, God knows you don't want to track the statute with the language that you use. That would be stupid.

What's also stupid is to do that memo two months before you've interviewed the target. That memo was drafted before the last witness was interviewed. Director, it was drafted before the target of the investigation was even -- was even interviewed, which makes people wonder, was the decision made before the interviews were finished?

And now, we believe that that same agent is also involved in the investigation into President Trump and his campaign, and may have interviewed Michael Flynn. That hasn't been confirmed, and we don't know what role, if any, he took in the preparation of documents for court filing.

So I'm going to say this, because I'm out of time, and I appreciate the chairman's patience with me: You have a really important job. When all else fails in this country, we want to be able to look to the FBI. We want to be able to look to the Department of Justice. When all the other institutions we trust, including Congress, appear to be broken, we want to be able to look to you.

It's been a really bad two years. I am counting on you to help answer our questions in Congress, our fellow citizens' questions. But I am, more than anything, counting on you to go back to work

for that blindfolded woman holding a set of scales that really doesn't give a whit about politics. That's the FBI that I want.

GOODLATTE:

Time of the gentleman has expired...

(UNKNOWN)

Mr. Chairman -- Mr. Chairman, I...

GOODLATTE:

... the director is welcome to respond.

WRAY:

Just a 30-second response. First, let me say, Congressman Gowdy, I'm well aware of your longstanding support for the bureau and the department, and I want you know we appreciate it.

And second, I want to assure you and every other member of this committee that there is no scenario under which I would've taken the president's nomination if I were not committed to the kind of independent, impartial, objective and professional pursuit of the facts -- I wouldn't be here if I weren't committed to that, and I can give this committee that commitment.

GOODLATTE:

The chair recognizes the gentleman from Louisiana, Mr. Richmond, for five minutes.

RICHMOND:

Director Wray, let me thank you for being here, but also thank you for the meeting we had a couple weeks ago.

Let me ask you a question, because, as I think about our approach to opioid addiction and how we combat this awful crisis, I also have to think back to our response to the crack epidemic and how we responded to the crack epidemic, which was mandatory minimum sentences, which led to mass incarceration.

But one thing in -- specific example is that, when we found grandchildren in public housing that may have had crack cocaine or cocaine, we filed eviction notices with housing authorities to remove them from public housing. That is not what we're doing with opioid addiction and people that we find in possession of opioids.

Do you see and are you concerned about a double standard in our approach to opioid and our approach to -- our response to crack? And should we address that in criminal justice reform, so that we treat substance abuse addiction as the mental health crisis that it is, and that the president declared with his opioid crisis?

So the question is, should we go back and look at how we treated crack and reform our old drug laws to better represent the mental health crisis?

WRAY:

Well, Congressman, I -- questions of sentencing reform -- criminal justice reform, I think, are better directed to the other side of the street, of the Justice Department, than to the FBI, where we largely focus on trying to do the investigations and the intelligence assessments.

But I will tell you that, in the context of the opioid epidemic which is upon us now -- that it has become a sufficiently big scourge on all communities in the United States that it's clearly going to require a whole-of-government type response that involves not just criminal justice steps, aggressive investigation and prosecution, but all sorts of other outreach, mental health treatment.

It's -- there might have been a time when we could've investigated and prosecuted our way out of the problem, and that's clearly going to be a major part of it. But it's become too big now. We're going to have to do something that's much more holistic and multidisciplinary.

RICHMOND:

And, you know, life experiences mean a lot, and I heard my colleagues on the other side talk about how great the FBI has been, and how it's held in high esteem, except for the past eight years under President Obama and, for my friend Congressman Gowdy, he said the last two years.

It just amazes me how we just missed the whole COINTELPRO history of the FBI. And that has to be one of its darkest moments, when it did illegal surveillance and initiated propaganda in the media to discredit civil rights activists who were trying to make the country a better place.

So let me just go there for second. First of all (ph) -- and I know that we just released a batch of documents from the Church Committee on JFK's assassination, but have we released and made public, in your knowledge, all of the documents and actions of the FBI during those COINTELPRO years?

WRAY:

Congressman, I don't actually know what information specifically has been provided on the COINTELPRO era. I know that hearings were conducted, books have been written, lots and lots of discussion has been had about it.

Certainly, I will tell you that I think I and everybody in the Bureau recognizes the COINTELPRO problems -- and that means different things to different people -- as one of the darker moments in the FBI's history. And it's something we're not proud of, but it also is something that we've learned from.

And, during some of the same time period, there is a lot that the FBI did that that we can all be proud of in terms of aggressive investigation of various civil rights abuses, among other things.

So we're human. We make mistakes. We have things that we've done well. We have things we've done badly. And, when we've done things badly, we try to learn from them.

RICHMOND:

And I would just hope that we expose as much as we can, so we can learn from it. But who was the director of the FBI that initiated COINTELPRO and all of those programs that were the darker moments of the FBI's history?

WRAY:

Well, I believe Director Hoover was in place at the time.

RICHMOND:

And who is your building named after?

WRAY:

Director Hoover.

RICHMOND:

And it's the darker -- or some of the darkest times of the FBI history, under Hoover, and the building is named after him.

With that, Mr. Chairman, I yield back.
WRAY:
Well, Mr. Chairman
GOODLATTE:
The director is permitted to respond.
WRAY:
well, I would just say that Director Hoover, like most of us mortals, did some things that he's probably not proud of, wherever he is right now, and some things that we are all should be all very grateful to him for, in terms of building the FBI into the organization it is today. So, like most people, he's complicated.
GOODLATTE:
The chair recognizes the gentleman from Idaho, Mr. Labrador, for five minutes.
LABRADOR:
Thank you, Mr. Chairman.
Director Wray, I really appreciated your opening statement to this committee. You and the great men and women of the FBI have an important and very difficult job. That is why, during the time of the Clinton investigation, I actually refused to question the integrity of your predecessor.
In fact, I spent dozens of town hall meetings as a Republican defending the integrity of your predecessor and disagreeing with some my constituents about the things that they were saying.
And but now it's become pretty clear to me that my belief in the integrity of your predecessor was misplaced. Could you please tell us what the letters "FBI" stand for? We know it stands for Federal Bureau of Investigation, but it also stands for something else.
WRAY:
We consider "FBI" to stand for the words "fidelity, bravery and integrity."

LABRADOR:

Mr. Director, I have begun to have serious doubts about some in the FBI, about -- serious doubts about the integrity of some of the highest levels of the FBI, because of actions taken by your agency over the past two years.

And that is so disappointing, because your agency does such important work, as you expressed in your opening statement, and that is to make America safe and secure. And it depends upon most of the work that you do.

It's a matter of public record that Hillary Clinton's aides, Cheryl Mills and Huma Abedin, blatantly lied to the FBI investigators about the existence of Hillary Clinton's private e-mails. And we know that an FBI agent, Strzok, investigated both Clinton and Trump. In fact, Strzok was present at many of these interviews.

Director, were Sherry (ph) Mills -- Cheryl Mills, Huma Abedin or any other Clinton associates ever charged by the FBI for lying to them?

WRAY:

Congressman, the handling of the Clinton e-mail investigation, including all the other participants in that matter, is the subject of an outside, independent investigation...

LABRADOR: I understand. It's a simple question of... (CROSSTALK)

WRAY:

... which is looking into that.

LABRADOR:

Was anybody charged for lying to the FBI?

WRAY:

No charges were filed against anybody in that investigation.
LABRADOR:
How many Clinton advisers were granted immunity during the e-mail server investigation?
WRAY:
I don't know the answer to that.
LABRADOR:
But there were several Clinton advisers who were granted immunity. Isn't that correct?
WRAY:
I believe that's true, but I don't know the answer to that, sitting here right now.
LABRADOR:
So we have recently heard that Strzok was the official who signed the documents that officially opened the collusion inquiry into the Russia Trump collusion inquiry. How many Trump administration advisers have been granted immunity during the Russia special counsel investigation?
WRAY:
For questions about the special counsel investigation, I'd refer you to the special counsel. I don't know the answer to that question.
LABRADOR:
So, if we want to believe in the integrity of the FBI, explain to me, why the double standard? When you have agents and people who work for the Clinton administration who were granted immunity, or who lied to the FBI, and they're not charged, what about why is there a double standard today?
WRAY:

Congressman, we in the FBI are committed to not having a double standard.
LABRADOR:
But you haven't been committed over the last two years. So are you doing something to correct that?
WRAY:
As I think I said to one of your colleagues, in every meeting that I go to since taking over director as director, I try to emphasize the importance of following the rules, following the process, following the law, following the Constitution, being faithful to our core values
LABRADOR:
OK, so
WRAY:
and not allowing political biases to affect our decision-making. And where there have been situations
(CROSSTALK)
LABRADOR:
OK. I only have I only have one minute
WRAY:
where there's a question, there's an Inspector General investigation.
LABRADOR:
Reclaim my time I only have one more minute left. So can you tell me definite definitively whether Michael Flynn violated the Logan Act?
WRAY:

That's not a question I can answer.
LABRADOR:
I actually believe that the Logan Act is unconstitutional, by the way. But, if we're going to not have an double standard, can you tell me whether the FBI is investigating former President Barack Obama for violating the Logan Act?
He has been spending the last couple weeks traveling the whole United States I mean the whole world, complaining about the foreign policy of the United States. Is the FBI currently investigating the former president of the United States for violating the Logan Act?
WRAY:
Congressman, as you may know, we will not confirm or deny the existence of any ongoing investigation.
LABRADOR:
Do you think we should investigate Minority Leader Pelosi for meeting with Assad, despite objections from then-sitting President Bush and Vice President Cheney in 2007?
WRAY:
Again, I'm not going to comment on speculate about whether or not there's an active investigation.
LABRADOR:
Let's not use an elected official. Should we investigate Dennis Rodman, who went to meet with the North Koreans? Should we investigate him for that?
WRAY:
Same answer.
LABRADOR:

All right. I want you to help me bring back the integrity of the FBI to the United States. I love the FBI. I even considered, as a young attorney, to join the FBI. I grew up on the show, and I have great love for the work that the men and women at the FBI do. And I hope that we can do something over the next two years that will counteract what happened over the last two years of... ROBY: The gentleman's time has expired. The gentleman from Rhode Island is recognized for five minutes. CICILLINE: Thank you. Thank you, Mr. Director, for your service and for the extraordinary service of the men and women at the FBI, who are serving our country and who do important and dangerous work, and risk their lives often in that work. You hold, in particular, a very solemn responsibility to protect the integrity and the reputation of the FBI, and you are clearly proud, as you should be, to lead this agency. And I think we are seeing an administration which will continue to challenge the independence of the FBI, and in many ways, our country is relying on your strength and your integrity to resist that. So I thank you. I want to just begin with a couple of short questions. One is -- there's been a lot of question about obstruction of justice. You are of course aware obstruction of justice is a criminal statute in our federal law. WRAY:

CICILLINE:

Yes.

And there is no exemption in it for the president or any other person in the United States; it applies to every person in this country.

WRAY:

I'm not aware of any statutory cop-out (ph).

CICILLINE:

Exemption -- OK. And I'd next like to turn to the issue of hate crimes. There's a ProPublica report from June of this year that identified at least 120 federal agencies that are not uploading information to the FBI's national hate crimes database.

And I'm wondering whether or not the FBI has reached out to these agencies so far; if so, how many; whether your plan is to reach out to all of them so that this information is being properly collected. And I'd be delighted to work with you on ways that Congress can help support that work.

WRAY:

Thank you, Congressman.

We do believe strongly that more and complete data is really essential to having an informed dialogue on that topic, just like in other areas of law enforcement.

As you may know, providing that kind of information is generally voluntary on the part of the state or locality. We do have all manner of outreach to various agencies to try to encourage them to provide information.

CICILLINE:

This is actually 120 federal agencies. These are not local. These are federal agencies.

WRAY:

You're only asking about the federal agencies, right.

CICILLINE:

So it's not voluntary. I mean, they're required to do this reporting.

WRAY:

Well, we -- right, so we have interaction with all sorts of federal agencies to try to collect their information.

CICILLINE:

Right. My question, really, is I hope you are putting together a plan now to reach out to those 120 agencies -- you be sure that they are complying with this reporting requirement -- and happy to work with you in ways that we can help support that.

Next, I'd like to turn to the NICS system, the background check system. The Pentagon's Office of Inspector General just released a report identifying serious deficiencies in the reporting system, with officials in all four branches failing to submit final disposition reports in 31 of those cases.

And we've seen a recent incident where that allowed someone who should not have been able to buy a gun to buy a gun and kill a great number of people. Has the bureau begun to coordinate with the Department of Defense to fix this very serious problem?

WRAY:

Yes, Congressman, we've been in sort of active engagement with the Department of Defense, and already a very significant amount of new records have come to the FBI, and a number of transactions have already been denied as a result.

CICILLINE:

Thank you, Mr. Director.

Under federal law, Director Wray, fugitive from justice -- those individuals who are fugitives from justice cannot lawfully possess a firearm. After a 2016 inspector general's report, the Obama administration agreed that the FBI would use ATF's interpretation of the terms "fugitive from justice," any individual with an outstanding warrant who has traveled across state lines.

Since taking office, Attorney General Sessions has narrowed this definition to include only those who have fled across state lines to avoid prosecution for a crime or to avoid giving testimony in a criminal proceeding.

This change resulted in the removal of almost 500,000 entries from the NICS database, with only 758 fugitives remaining. Do you agree with the narrowing of his definition? And you think Congress should take steps to define "fugitive from justice" to avoid this kind of action?

WRAY:

A couple things. First off, I actually think the change occurred before the change in administration. And there was a letter written by the Justice Department under the prior

administration to Congress, notifying them of the change and essentially inviting legislative attention to the issue.
CICILLINE:
But do you do you agree with that?
WRAY:
Then the second as I said, the FBI's position for years and years had been that the "fugitive from justice" interpretation didn't require crossing of state lines. I gather there's been a legal interpretation, which I'll defer to the lawyers on.
I will tell you, though, that, as to the 500,000 point, that's there's been a little bit of confusion in the reporting on that. That's it removed it from one part of the NICS database, but it's still in the states' warrants database.
CICILLINE:
OK. My final question, Mr. Director last month, a Las Vegas shooter used a bump stock device to accelerate the rate of the assault weapon discharge, killed 58 people and injured about 500. Do you support the bipartisan effort in Congress to ban bump stocks?
WRAY:
I haven't reviewed the legislation, but obviously, we're deeply concerned about the bump stock issue.
CICILLINE:
And do you generally support a prohibition?
WRAY:
Well, the FBI doesn't normally take positions on that.
CICILLINE:
OK.

WRAY:

So we'd sort of provide operational assessment, and I've worked through the Justice Department on that.

CICILLINE:

Thank you. And, Madam Chair, I just -- before I yield back, I just want to say, Mr. Director, that the rule of law is really the guardian of our democracy, and the president and this administration are going to continue to test our commitment, as a nation, to this. And you're going to play a very critical role in defending that.

And our country is really depending on you, and I trust that you will continue to uphold the integrity of the FBI and the rule of law in this country, because the very foundations of our democracy depend on it. And with that (OFF-MIKE).

ROBY:

The gentleman's time is expired.

The gentleman from Florida, Mr. DeSantis, is now recognized for five minutes.

DESANTIS:

Welcome, Director.

Secretary Clinton's e-mails were backed up on a cloud by Datto, Inc. And they're now subject to an order by U.S. District Judge Moss in a case brought by Judicial Watch. My question is, why did the FBI not search the data -- Datto device in its possession for Hillary's deleted e-mails?

WRAY:

I believe decisions made in the course of the Clinton e- mail investigation are all the subject of the inspector general's review.

DESANTIS:

But why -- do you know why the FDA -- the FBI didn't disclose that such device was in its possession?

WRAY:
I don't know the answer to that.
DESANTIS:
OK.
Was Attorney General Lynch's airplane cabin monitored when she met with Bill Clinton on 27 June, 2016, on the tarmac in Phoenix?
WRAY:
I don't know the answer to that. And I think that the tarmac meeting, I think, is part of or related to the inspector general's outside and independent investigation.
DESANTIS:
Do you know how the meeting came about, though? It's not like you just bump someone in the shopping mall. They met on a private plane or a plane. Do you have any insight into that?
WRAY:
I wouldn't say that I have any constructive insight to offer to that. I've read some of the same newspaper covers that you have. But, as I said, that's that whole episode is wrapped up in the inspector general's ongoing investigation.
DESANTIS:
How did the Russia investigation start? Did Peter Strzok was he did he start it?
WRAY:
I'm not aware of who started the investigation within the FBI.
DESANTIS:
Was it started because the dossier was presented to somebody in the FBI?

WRAY:

I don't have the answer to that question.

DESANTIS:

OK. Can you get the answer to that question for us?

WRAY:

Well, if there's information that we can provide that -- without compromising the ongoing special counsel investigation, I'm happy to see what there is that we can do to be responsive.

DESANTIS:

Was Peter Strzok involved in coming up with the conclusion that the FBI reached about Russia -- whatever involvement they had -- when they issued a report after the election?

WRAY:

That's a question that goes right to the heart of the special counsel investigation, and I don't think it would be appropriate for me to speculate or comment on that.

DESANTIS:

So here's the -- I think the problem that you have -- I think you're walking into a contempt of Congress. I mean, the idea that we can't conduct oversight over how the FBI is handling things that are very sensitive, and then you're going to come to us and say we should reauthorize all these programs willy-nilly -- I just think you're wrong on that.

And I don't think you're trying. I just -- I don't know what advice you've got, but we do have a right to conduct oversight over this. We all can deal with classified information all the time.

So we have a question about how this dossier was generated for political purposes. It ended up in the FBI's possession. What did the FBI do with it? And your answer to us is you will not give us any information on that today.

WRAY:

My answer has a couple parts to it. There are certain -- of the various questions that have been asked here today, there's some topics that I think it's not appropriate to discuss in open forum. There's some topics that are classified...

(CROSSTALK)

DESANTIS:

Whether you use it or not, though, is not classified. Go ahead.

WRAY:

There are some topics where, even though the information is classified, we can and do and will share it with the committees in an appropriate setting. And then there are some topics that go straight to -- even -- it's not just a question of classification. They go straight to access to sensitive sources and methods, which is something that all of us as Americans have to take very, very seriously.

DESANTIS:

You admit that (ph) the chairman of the Intelligence Committee has a right to that, and you still - you won't even produce it to the chairman of the Intelligence Committee.

So here's the problem. Whether Strzok was involved in this -- that needs to be disclosed to Congress. Whether the dossier was used to generate surveillance with the FISA court on a Trump associate -- that needs to be disclosed to Congress.

I don't care about the sources and methods beyond (ph) we know where -- the sources and methods. It was the Democratic Party paying Fusion GPS to get the dossier. So we know that.

The question is, how did your organization use it? You weren't there during that time, but, if they were getting this information from a political party and then using it for surveillance against an opposition party candidate, that's a problem.

Do you agree that that would be a problem for the American people?

WRAY:

I do agree, Congressman, that any inappropriate use of the FISA process for political purposes is something that we should all be very concerned about and take very seriously.

DESANTIS: So we need the answers to that. It's very, very important. Let me ask you this. Independence from politics, I agree, but the FBI, like all agencies, need to be accountable to someone. So let me ask you this. Would it have been inappropriate if President Kennedy ordered Director Hoover to stop surveilling Martin Luther King Jr. in, say, 1962, if he believed that surveillance was illegitimate? WRAY: No. **DESANTIS:** Right. So you would be accountable. Is it customary to draft an exoneration memo long before interviewing all relevant witnesses, including the target of that investigation? WRAY: Well, I do believe that, in any investigation, final decisions and conclusions should wait until, as Congressman Gowdy said -- until the -- you know, until the last witness has been reached. On the other hand, I also know, from having done investigations both for the government and on the private side, that, as investigation develops, you start forming views about what you're finding, all subject to revision and, in some cases, withdrawal, until you're done. **DESANTIS:** Fair enough. Is it acceptable practice for FBI agents to leak official work product to the media? WRAY: No.

DESANTIS:

Thank you. I yield back.

ROBY:

The gentleman's time is expired.

The gentleman from California, Mr. Swalwell, is now recognized for five minutes.

SWALWELL:

Welcome, Director Wray. Congratulations on your appointment, and thank you and your agents for their service to our country.

I think there are fair questions, as you've pointed out, about prior investigations, and, if there's evidence of any misconduct, they should be held to account.

But it is sickening to sit here and listen to the good names of people like Bob Mueller and James Comey just be smeared, and that the work of your agents has become politicized, because I don't believe that is the case and what I've observed on the Intelligence Committee and what I've observed just as a former prosecutor who's had FBI agents on the stand.

But I would like to look forward. And our House Intelligence Committee investigation -- it's early, but it has yielded some key takeaways, which is that our social media was weaponized by the Russians, that senior presidential campaign aides were approached by Russians in a variety of ways to offer dirt on a political opponent, and that our government response, from the very top, to our intelligence officials, was probably not sufficient in how Congress was notified or how the public was notified.

Knowing that we have an election coming up in November 2018, what does the FBI plan to do, whether it's Russia or any of the other adversaries that you identified who would love to interfere, meddle or influence an election?

WRAY:

Well, Congressman, any effort to interfere with our elections, whether it's by Russia or any other nation-state or, really, by any non-state actor is something that we at the FBI take extremely seriously, and I know our counterparts throughout the government do, as well.

We are, as I think I may have mentioned, like you, focused on looking forward. We have created, a few months ago, a foreign influence task force to ensure that we're bringing the right kind of focus and discipline to the process. It combines -- because we think this is a multidisciplinary problem, it combines both the counterintelligence division and the cyber division and the criminal division and some other parts of the FBI, as well.

Our focus is on trying to look for, sniff out, determine whether or not there are any efforts to interfere with the upcoming elections. We are, in that effort, coordinating closely with Department of Homeland Security, which has a similar type of body on its end.

SWALWELL:

Would you be open to working with Congress on a "duty to report" law, whether it's social media companies who observe interference on their platforms before the FBI does, or whether it's individuals who are contacted by foreign nationals offering ill-gotten evidence against another campaign -- that there would be a duty to report that to law enforcement? Would that be helpful for the FBI?

WRAY:

I'd be happy to have our staff coordinate with yours to review any legislative proposal and to give you sort of an operational assessment of how that might or might not be helpful.

SWALWELL:

Director, again, looking forward, but being informed by prior conduct, in uncontradicted sworn testimony to Congress, former Director James Comey described multiple efforts by President Trump to influence the FBI's Russia investigation. Again, that's the only sworn testimony the record has.

Director Comey memorialized President Trump's inappropriate conduct a series of memos. A couple questions for you. Since being sworn in, have you met one on one with President Trump?

WRAY:

No.

SWALWELL:

Has he called you, where just the two of you have talked?

WRAY:

I've gotten maybe one congratulatory phone call, you know, for example, the day of my installation ceremony.

SWALWELL:
But haven't had to break a date with your wife?
(CROSSTALK)
WRAY: not a I haven't had sort of substantive engagement that way.
SWALWELL:
Now, knowing the prior efforts by the president to influence a past investigation, going forward, how will you memorialize or report to Congress or the public any improper effort by any president to influence an ongoing investigation? Have you thought about procedures or methods that you would take?
WRAY:
I would evaluate each situation on its own merits. I'm acutely aware of the importance of trying to keep careful track of conversations, especially important, sensitive conversations. Exactly what I would memorialize and how and whether again, it would depend on the circumstances of the particular situation.
But you can be confident that, in all of those situations, I would, as I said to the committee earlier, be guided by my unwavering commitment to following my duty and my adherence to the Constitution and the rule of law. And there isn't a person on this planet that can get me to drop a properly predicated investigation or start an investigation that's not properly predicated.
SWALWELL:
Do you believe that president Trump is above the law?
WRAY:
I don't believe anybody's above the law.
SWALWELL:

Thank you. I yield back.
ROBY:
The gentleman yields back.
The gentleman from Colorado is recognized for five minutes.
BUCK:
Thank you. And thank you, Director Wray, for your testimony today.
You've heard a lot about the appearance of impropriety or possible conflict of interest or the perception that there are some that are tainted in their views. There is a statute that was enacted years ago that the deals with this in part, and it's the Hatch Act.
And, as the former Assistant Attorney General for the Criminal Division and now the FBI director, I am assuming that you are familiar with the Hatch Act.
WRAY: Generally familiar, sure.
BUCK:
And, as a former federal prosecutor, I was also before you started in the department, the Hatch Act was amended, and it allowed assistant U.S. attorneys and others to participate more fully in the political process.
But it specifically prohibited, or specifically did not allow, that enhanced participation to apply to prosecutors in the criminal division and FBI agents. At least that's my memory. Is that are you familiar with that?
WRAY:
I would say I'm generally aware that as you say that there were some changes, some loosening under the Hatch Act, at some point. I can't remember exactly when that was, relative to my time as a baby prosecutor. And so the particulars of exactly when it applies and when it doesn't, and to whom unfortunately, I just don't have that committed to memory here.

BUCK:

So I think it was '93. But I think, again, the criminal division and the FBI were not -- the rules were not loosened as to those two organizations.

And one of the -- one of the prohibitions is against individuals contributing to the -- a partisan political candidate. And I'm -- again, I'm asking you, are you are you familiar with that prohibition? And is that a prohibition that applies to FBI agents today?

WRAY:

I don't know that I can recall, right off the top of my head, exactly what the restrictions are on political participation under the Hatch Act for FBI agents and criminal division prosecutors. So, unfortunately, I would have to look at that and see if I can get back to you, if you would like me to.

BUCK:

I -- or a member of your staff would be -- would be great. I'd be interested in that.

There is at least one prosecutor on the Mueller team that was at the criminal division and donated to Hillary for America, according to a record that I am looking at right now, and there are a number of the prosecutors on the Mueller team now that have prosecuted in the past.

And I'm not sure that they were criminal division employees at the time they prosecuted, but my question really is whether we need to amend the Hatch Act and make it more clear, in light of the perception by members of the public that there are individuals that are investigating President Trump, and they have an agenda -- an unfair agenda in their investigation.

There -- a spouse of an FBI -- a senior FBI employee received a large amount of money from the Democrat Party to run for office in Virginia. And, again, the appearance of -- and my understanding is the Hatch Act does not apply to spouses, and hasn't applied to spouses and was never intended to apply to spouses.

But it does raise the issue of whether we should have further restrictions to make sure that the public has faith and trust in the process that you and I hold dear. I'm just wondering if you'd be willing to comment on that.

WRAY:

Well, any specific legislative reform would be something I'd have to look at more closely. I think the fundamental underlying principle of your point is one that you and I share, which is that investigations need to be conducted in a way that political bias doesn't taint.

Whether that -- how much of that is done through the Hatch Act, how much of that is done through policies and procedures and staffing, how much that is done through recruiting the right people, training and promoting the right people -- I think it's all of the above.

BUCK:

And I think that's a great point. In order to staff a case in a way that would assure the public that there wasn't a bias going into the case, you would need to know who had donated to who, who had participated in some political activity.

Should there be, at least internally -- maybe not as a matter of public record, but internally within the FBI -- a process where, if someone complies with the Hatch Act, but is still involved in some activity -- that they disclose that, so that, if there is a staffing decision to be made, that the staffing decision can be made with the assurance of supervisors that people are not tainted in some way, or at least the perception is that they aren't tainted?

WRAY:

BLICK.

I'd have -- I'd have to think about the First Amendment implications of that. I certainly take the point. You know, my guess, though, is that you could encounter similar concerns when you look at individuals' charitable contributions too, right -- you know, contributions to particular organizations -- 501(c)(3) organizations that have a particular social view, for example.

So I think questions of bias and objectivity back and forth, and questions of appearance of bias and objectivity back and forth, have to be taken very seriously. And I think you and I share that view. But I also want to make sure that, whatever I'm doing, I'm doing it in a way that's consistent with respecting the fact that FBI employees, just like all Americans, have a right to have views and -- both about politics, and about social issues.

BOCK.
Thank you for your
ROBY:
The gentleman's time is expired.

BUCK:
thank you.
ROBY:
Now recognize the gentleman from California, Mr. Lieu, for five minutes.
LIEU:
Thank you, Madam Chair.
Thank you, Director Wray, for being here. I want the American people to know that, when you served in the administration of President George W. Bush, you received the Edmund J. Randolph Award, the highest award that the Department of Justice gives for leadership and public service. So not only have you served the American people; you have served us well. Thank you.
Earlier today you stated that Donald Trump has not asked you to take a loyalty oath. If Donald Trump were to ask you, later today or sometime in the future, to take a loyalty oath to him, would you do so?
WRAY:
The only loyalty oath I take is the one that I took when I was sworn into this job, which is of loyalty to the Constitution and the laws of the United States.
LIEU:
Thank you. That is the right answer. I asked that same exact question Attorney General Sessions last month. He did not give that answer. I commend you for understanding that your loyalty is to the Constitution, the laws and the American people, not to whoever happens to be president at the time. So thank you for recognizing that.
I'd like to ask you about intelligence community assessment. I have a document here called "Assessing Russian Activities and Intentions in Recent U.S. Elections." Madam Chair, I'd like to enter it for the record or Mr. Chair, I'd like to enter the document for the record.

Chairman Goodlatte, I'd like to enter a document for the record.

GOODLATTE:

Without objection.
LIEU:
Thank you I'm going to ask you about three specific findings. This report was released earlier this year. It states and this is the FBI, CIA, NSA, and others "We assess Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the U.S. presidential election.
"Russia's goals were to undermine public faith in the U.S. democratic process, denigrate Secretary Clinton and harm her electability and potential presidency. We further assess Putin and the Russian government developed a clear preference for President- Elect Trump."
Does the FBI stand by that assessment?
WRAY:
As we sit here right now, Congressman, I have not seen any information that would cause me to question the basic conclusions of the intelligence community assessment, including that one.
LIEU:
Thank you. I'm going to ask you about two more. "We also assess Putin and the Russian government aspired to help President-Elect Trump's election chances, when possible, by discrediting Secretary Clinton and publicly contrasting her unfavorably to him."
Report notes that the FBI has high confidence in this judgment. Does that remain true today?
WRAY:
Again, sitting here right now, the information that I've seen to up to this point would not cause me to question the basic conclusions of the intelligence community assessment.
LIEU:
Thank you. And then one more: "Russian intelligence obtained and maintained access to elements of multiple U.S. state or local electoral boards." Does the FBI stand by that assessment?
WRAY:
Same answer.

LIEU:
Great, thank you.
Earlier this week, the president of the United States attacked the dedication and integrity of 37,000 FBI employees. I believe that's outrageous. It's also factually false.
I'd like to go through with you the extremely high caliber of the personnel in your department. As you know, there are a number of disqualifiers that keep the FBI from even considering to hire you. So, first off, you've got to be a U.S. citizen to be an FBI employee, correct?
WRAY:
Yes.
LIEU:
If you are convicted of a felony, if you violate the FBI's drug policy or fail the FBI's urinalysis test, you cannot be hired as an FBI employee, correct?
WRAY:
That's my understanding.
LIEU:
If you fail to pay court-ordered child support, if you fail to file your taxes, if you even just default on a student loan insured by the U.S. government, you can't be hired as an FBI employee, correct?
WRAY:
I believe that's right.
LIEU:
And all FBI employees, in addition to passing credit record checks, have to also pass a polygraph examination, correct?

WRAY:
I believe polygraphs are applied to almost everybody in the FBI, yes.
LIEU:
Thank you.
To be an FBI special agent, there's even more qualifications. You have to pass a phase one test that assesses reasoning and judgment, meet in person with FBI officials, pass a phase two test that includes a writing exercise interview with FBI special agents and pass a physical fitness test, correct?
WRAY:
Again, I believe that's correct.
LIEU:
And then you have to pass a 21-week course at the FBI Academy in Quantico, correct?
WRAY:
I'm sorry, what was the length?
LIEU:
You have to pass a 21-week course at the FBI Academy in Quantico.
WRAY:
Right, 21 weeks, exactly. That's a subject of some sometimes, the instructors will tell the new agents that it's only 20 weeks, and the agents will quickly point out, "No, no, no; it's 21 weeks. We know the difference."
LIEU:

Thank you. I served on active duty in the military. They've been known to say that, too.

Now, that's why, of all these enormous qualifications people have to go through that, of the 12,000 applications the FBI had last year, you only hired approximately the top 6.3 percent to be special agents. Correct?
WRAY:
Well, I don't have the numbers, but that sounds generally right.
LIEU:
So two more questions. The FBI's reputation is not in tatters, right?
GOODLATTE:
The time of the gentleman has expired. The director may answer the question.
WRAY:
As I said to the committee earlier, my experience with the FBI has been positive. I have enormous faith and confidence in the people who work there.
I see example after example of fidelity and bravery and integrity everywhere I go inside the organization, and I could not be more proud to be sitting here as one of their colleagues.
LIEU:
Thank you. I yield back.
GOODLATTE:
The chair recognizes the gentleman from Texas, Mr. Ratcliffe, for five minutes.
RATCLIFFE:
Thank you, Mr. Chairman. Director Wray, good to see you again.
Let me start off where my colleague from California just left off, about the tweet, FBI in tatters. As you've pointed out, the I in FBI stands for integrity. I never misunderstood President Trump's

tweet to be anything other than questioning the integrity of senior leadership at the FBI, not the rank-and-file agents within the FBI. And much of that swirls around the senior leadership of former FBI Director James Comey.

Congressman Gowdy well highlighted a series of anomalies involving Director Comey -- former Director Comey, as well as former Attorney General Lynch. Director Comey's gone. But now, we have new questions raised this week about integrity of other senior FBI officials -- FBI Agent Peter Strzok.

Agent Strzok was, until recently, the FBI's number two counterintelligence official. Correct?

WRAY:

Well, I think he was number two -- one of the number twos in the counterintelligence division.

RATCLIFFE:

All right. And then, after some -- approximately 10,000 texts, some of which included anti-Trump or pro-Clinton sentiments, he was reassigned to the human resources division at the FBI, correct?

WRAY:

Correct.

RATCLIFFE:

And so here's what we've learned about Agent Strzok before that reassignment: That he headed up the Clinton e-mail investigation for Director Comey. Correct?

WRAY:

Well, I know he was actively involved in the investigation. Who headed it up -- I think I'd have to defer on that.

RATCLIFFE:

But we know that he was present for -- from the FBI's own 302s, we know he was present for the interview of Hillary Clinton.

WRAY:

I've heard that, as well.

RATCLIFFE:

Well, I have seen the actual redacted 302, so I'll represent to you that he was present. It was reflected that he was present in the room.

We also know that, months before that interview of former Secretary Clinton, that Mr. Strzok was part of the team that wrote an exoneration memo and changed, as you have been questioned about, language in there, changing "gross negligence" to "extremely careless," a legally significant change. Correct?

WRAY:

Well, Congressman, as you probably recall from your own prior life, you can probably guess what I'm about to say, which is that there is a very active -- and I can assure you it's very active -- outside, independent investigation by the inspector general into the matters that you're asking about.

RATCLIFFE:

I appreciate that. But I'm just trying to highlight all of the things where Agent Strzok was involved. And we know that, after President Trump's victory in November, it's believed that he may have signed off on various documents initiating the FBI's Russia election probe.

But we know, at a minimum, that he interviewed Trump campaign -- or was involved in the interview of Trump campaign adviser Michael Flynn. Correct?

WRAY:

Again, I'm not going to discuss the facts of the ongoing investigation.

RATCLIFFE:

And then we know that, upon the appoint of special counsel to look into possible Trump Russia collusion, Strzok was detailed to Mueller's investigative team. Some reports have him as the lead investigator. Correct?

WRAY:

I don't know whether he was the lead investigator.

RATCLIFFE:

All right. Well, as has been pointed out, every FBI employee has and is entitled to have political opinions. And now, we know that there are some 10,000 texts, which apparently very much highlight agent Strzok's political opinions -- anti-Trump and pro- Clinton.

I'm not making accusations here. I'm not making conclusions here. But you remember from law school that legal doctrine, the fruit of the poisonous tree -- it's really a legal metaphor that says that, if the source, or tree, is contaminated, biased or prejudiced, that everything that it yields and that it -- arises from that may also be -- I eat a fruit, it's contaminated -- prejudiced or biased.

And so I think you can see where I have concerns about the appearance of impropriety here, because what we've learned about FBI agent Strzok is that this is the one FBI agent that is literally at the epicenter of every -- virtually every major decision the FBI has been involved in, action and inaction, about Candidate Trump, about President Trump and about Candidate Clinton.

And, if that one agent at the center or source is decidedly anti- Trump and decidedly pro-Clinton, that raises real questions about all of the conclusions that the FBI has reached on any and all of these matters.

Now, to his credit, it is being reported that Special Counsel Mueller is the one who demoted agent Strzok upon learning about these anti-Trump, pro-Clinton texts. I want to give him credit for that, if in fact those reports are true. Are they true?

WRAY:

Congressman, I would not say that the individual in question was demoted. I would say he was removed from the investigation, and that was something that we did from the FBI end in coordination with the Office of Special Counsel.

RATCLIFFE:

Well, I want to give credit where credit is due, and if Special Counsel Mueller is entitled to that, I will certainly want to give that to him. But what I am troubled about is that we fund out these facts months later, not from Special Counsel Mueller, but from Inspector General Michael Horowitz.

Two weeks ago, Attorney General Sessions was in this room, and I asked him a question, because I'm part of an investigative team -- joint committee from Judiciary and the Oversight and Government Reform Committee that are looking into these irregularities in the 2016 election -- decisions that were made by the FBI and the Department of Justice.

And I asked Attorney General Sessions, will you allow us to go where the facts and evidence lead us in that investigation, in our oversight capacity? He assured me that he would.

I'm asking you, and giving you the opportunity to represent to us as this oversight body, and to the American people, that you will allow us to go where the facts and evidence lead us.

GOODLATTE:

The time of the gentleman has expired.

The director can answer the question.

WRAY:

We -- I would want the FBI to cooperate with the committee's oversight and investigation in every way we appropriately and legally can.

RATCLIFFE:

Well, Director, my time's expired. I just want to tell you that, as you know, we work together at the Department of Justice. The FBI is an organization that I have revered for my entire life. Help me help you restore the FBI's reputation with every American. Thank you, and I yield back.

GOODLATTE:

Chair recognizes the gentleman from Maryland, Mr. Raskin, for five minutes.

RASKIN:

Thank you very much. Director Wray, welcome, and thank you for your commitment to the rule of law in face of these continuing efforts to defame your department and its employees. When the White House says that your office is in tatters, I think it's a case of what the psychiatrists call projection.

But I want to ask you about the crisis of gun violence in America. You said that you would not rule out, in any way, common-sense gun reform legislation. Unfortunately, we haven't been able

to have hearings on any common-sense gun reform legislation, like a criminal background check in the case of all gun sales which are supported by more than 90 percent of the people. But yesterday, the House passed something called the Concealed Carry Reciprocity Act which would, theoretically, if it passes the Senate, allow for millions more guns in interstate traffic because it would wipe out the laws of the states with respect to concealed carry.

Have you done any study or analysis as to what it would mean for federal and state and local law enforcement if this legislation were to pass?

WRAY:

I'm not aware of any such study, Congressman.

RASKIN:

Do you have any thoughts on this legislation?

WRAY:

I haven't reviewed this legislation, I'd be happy to take a look at it, but I think we would have to make an operational assessment depending on where the legislation goes.

RASKIN:

Do you support universal criminal background check, the kind that's supported by more than 90 percent of the American people? Is that in the interest of public safety in the country?

WRAY:

Any legislative change to the current gun laws is something that I would evaluate from the standpoint of all the operational impacts for the FBI.

RASKIN:

Mr. Director, some of my colleagues have asked questions about the possible politically-based targeting by the FBI of African- American political activists denominated as black identity extremists. Other colleagues across the aisle are asking questions about the possible politically-based targeting by the FBI of Republican presidents.

There's a lot more in the FBI's history with J. Edgar Hoover and the campaign to smear and disrupt Martin Luther King and the civil rights movement and the COINTELPRO program to justify Congresswoman Bass' fears or Congressman Richmond's fears than the odd fears being expressed by our colleagues that there is a conspiracy to target Republican presidents.

But let me just ask you some basic questions that might help to clear up some of the confusion. Does the FBI target people for criminal investigation or prosecution based on their political party?

WRAY:
No.
RASKIN:
Would you accept any prosecutors doing that?
WRAY:
I would not accept any prosecution well, first off, prosecuting is not what we do
RASKIN:
Investigate or (ph) prosecute?
WRAY:
what we do, what we do is investigate. And that's important, that we keep straight who the investigators are and who the prosecutors are. We open investigations, as I said earlier, only when they're properly predicated, which in this context means, credible evidence of a federal crime, credible evidence of a threat of force or violence and those things being both of those things being used to sort of further a political or social goal, that's what we investigate.

We do not investigate opinion, ideology, political persuasion, rhetoric. Those are not things -- we've got enough on our plate and we don't investigate those.

RASKIN:

But we know that President Trump tried to get Director Comey to drop the Flynn investigation and then fired Director Comey after he refused to go along with that. Other than the heckling and

hectoring that you've experienced today by our colleagues, has anyone from the Trump White House tried to interfere with any investigations you're involved in right now?

WRAY:

First off, I don't take any of the questions from any of your colleagues as heckling or hectoring. As I said to my team earlier in the week, Congress has an important role and I welcome the tough questions. I may not always be able to answer your questions, as you've seen here today, but you can count on me to do my best and that -- that's what I will do as long as I sit in this chair. As for the, any effort to interfere with our investigations, to my knowledge, to my experience, since I started in my job, nobody has tried to interfere improperly with any investigation that's under my supervision.

RASKIN:

And in the face of political complaints that this group or that group doesn't like an investigation you're doing, what is the proper response of the FBI?

WRAY:

I say to all of our folks as often as I can, because I think that's what's so important and it goes, frankly, right to some of the concerns that members on both sides have expressed, that our job is to follow the facts independently and objectively wherever they may lead, no matter to whom it may lead, and no matter who doesn't like it. And one of the points that I try to make over and over again to our audiences is that there is always going to be someone who doesn't like what we do.

You think about the most basic investigations that we have. If it -- it leads to an arrest, I guarantee you, the guy we arrest, he didn't like it. And in those situations where we bring an investigation and we can't arrest somebody, more often than not, the victim is frustrated and disappointed and they don't like it. And our safe space is to follow the rules, follow the guidelines, follow the Constitution, follow the facts objectively and independently and then let the critics go where they may because there will always be lots of critics of everything we do.

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\mathbf{K}_{I}	AS	K	11/	1:

Thank you. And...

GOODLATTE:

Time of the gentleman has expired.

The Chair recognizes the gentleman from Florida, Mr. Gates for five minutes.

GATES:

Thank you, Mr. Chairman.

You said that your safe space is to follow the rules. Were the rules followed in the Hillary Clinton investigation?

WRAY:

That's something that's being investigated right now by the outside Inspector General. I'm very much looking forward to seeing what he finds on that.

GATES:

Yes, you and me both. Did she get special treatment?

WRAY:

Well, again, I think when you ask about special treatment, I -- I interpret that, and I may not be correctly interpreting your question, in which case I'm sure you'll tell me, but I take that to be a question about whether or not the handling of that investigation was tainted in some way by improper political considerations. And that's exactly what the Inspector General's going to tell us.

GATES:

So I sent you a letter asking you to tell us whether or not Hillary Clinton got special treatment and your answers, your office's answer was that you would provide it in a classified setting. Why don't the American people deserve to know whether or not Hillary Clinton got special treatment?

WRAY:

Well, I think the reference to classified information went to the other part of your letter which has to do with the dossier issues. But the -- but the -- but so on -- but on the first part on this question of special treatment, what I would tell you, because I think this is one of the questions in your letter, is that we do not have at the FBI some double standard of special, not special. It's not a -- there's no formal term special. Special, as best as I can tell...

GATES:
It's an informal term.
WRAY:
It's an informal term.
GATES:
Yes, you could see how that informally designating something as special signifies a double standard, right?
WRAY:
I can see how the term special could be misunderstood, but I will tell you that in my experience
GATES:
Well, let me go to the dossier because I have limited time, Mr. Director. So on the dossier, did the FBI pay for a dossier on the president?
WRAY:
Questions about the dossier are something that are better taken up in separate settings.
GATES:
Well, don't the American people deserve to know whether taxpayer money was used to buy a dossier that was curated by a political party to discredit the President of the United States before and after his election.
WRAY:
As I said, I understand the basis for the question, but I would tell you that questions on that subject are something they we're having lots and lots of interaction with multiple congressional committees and their staffs on in the classified setting.

GATES:
Did Bob Mueller recruit people to his probe that had a bias against the president?
WRAY:
I can't speak to how Director Mueller staffed or recruited for his team.
GATES:
It seems like a hell of a coincidence. I mean, we've got Mr. Strzok, who's clearly got a bias, that' why he was reassigned. He's at the center of a lot of the development of facts. You've got Mr. Weissmann who's praising people who are defying the president and then you have law firms that are overwhelmingly donating to the Obama campaign and the Clinton campaign that serve up the humans that are in that investigation. So you can't say with certainty that bias against the president wasn't a factor that brought people into the Mueller probe, can you?
WRAY:
As I said, I'm not going to weigh in on Director Mueller's staffing of his own team.
GATES:
So we don't know whether Mr. Mueller recruited people as a consequence of their bias. We don't know whether Hillary Clinton was treated as special. We don't know whether the FBI used taxpayer money to buy a dossier to discredit the president.
Now, what we do know is that you said you are and ask questions first, than act, kind of guy, which I believe and appreciate. So you would never as and ask questions first kind of guy, draft and exoneration statement before interviewing key witnesses in an investigation, would you?
WRAY:

Well, I certainly wouldn't finalize one. I -- I -- I will say as I said, I think -- I can't remember if it

was to Congressman Gowdy or are one of your other colleagues, in my experience in an investigation, you do start to form a view, but keyword...

GATES:

FBI 18-cv-1800-1002

But do you start drafting
WRAY:
Keyword start
GATES:
Do you start drafting an exoneration statement before conducting witness interviews?
WRAY:
We sometimes would draft reports before the investigation was
GATES:
Exonerating someone?
WRAY:
Exonerating or incriminating, but in all cases in all cases, as Congressman Gowdy alluded to in his own comments, in my view, you would not make any kind of final decision about anything exoneration or otherwise, until you had all the evidence.
GATES:

So, we've got exoneration statement drafted before the interviews are done, you've got a meeting on the tarmac with the spouse of someone that is being investigated. You've got the former FBI director holding a press conference to make a determination about the outcome of an investigation. You've got James Clapper, when he's confronted with information from an intelligence Inspector General saying that he doesn't want anything to be a headache for the Clinton campaign. We don't know if these taxpayer funds were used for opposition research.

My question is, what's it going to take? Why do we have to wait for Inspector General. If I walk outside and it's raining, I don't need an Inspector General to tell me to get an umbrella. With these highly aberrational circumstances, which almost anyone would acknowledge depart from the standard procedures of the FBI, why wait for an Inspector General -- why not do what we know to be right and institute reforms that bring transparency and oversight and redundancy, so that in the future, you won't have some egomaniac rogue FBI director that departs from the normal procedures so that outcomes can be predetermined before the investigation?

WRAY: As I said before, and as Congressman Gowdy said in his question to me, I think it's appropriate that we wait, in this instance, until we have all the facts, until the last witness, as he said, has been interviewed. And then based on the facts we have take appropriate action. I completely understand the reasons you're asking the question. I sympathize... GATES: Do you see...

But I do not think...

WRAY:

GOODLATTE:

The time of the gentleman has expired. The Director may answer the question.

WRAY:

Your concerns, which I completely sympathize with and understand, go to the question of whether or not proper process, investigative and otherwise were followed. And I think the best way to get to the bottom of that is not to bypass proper investigative process now into those things.

We should wait, let the fact-finding finish the Inspector General, as somebody who seen the Inspector General in action, from the Justice Department side, as a line prosecutor, as a defense attorney, is not a rubberstamp. This is somebody who puts people through their paces, and I look forward to hearing what it is he finds. This is not the FBI investigating itself, it's an outside watch dog. And I look forward to seeing what that report is. And then, at that time -- but at that time, that's when we should look at what appropriate steps should be taken in response.

GOODLATTE:

The Chair recognizes the gentlewoman from Washington, Ms. Jayapal, for five minutes.

JAYAPAL:

Thank you, Mr. Chairman.

Director Wray, thank you for being with us today. And thank you to your service to this country. I have a question about the FBI's 2016 crime in the United States report. It surprised many of us to see a drastic decrease in the amount of data available in the report. The report only contains 29 tables as opposed to the 80 plus tables, that's almost a 70 percent decrease in the tables of previous years. And when questioned, the Bureau explained that this plan had been in place since 2010.

However, state program mangers were only informed of the change recently. Are you aware of the shift to dramatically decrease the amount of crime data available to the public?

WRAY:

Congressman, I recently learned of this issue. I guess I could say a couple things. The first is that the decision to remove those particular tables was based on information that CGIS, which is part of our FBI had, that spoke to how often those tables were even being reviewed by anybody.

Second, the information in those particular tables was largely just alternative views of data that was still in the report. But third, and probably most importantly to your question, we recently made a decision internally to go ahead and republish the information with the tables. It's going to take a few weeks for that to happen, however.

JAYAPAL:

That's great, we really appreciate that very much. And I did want to submit this letter for -- for the record, from the crime and justice research alliance about why those tables are so important. But we very much appreciate you doing that. Let me move to some questions about hate crimes and various ethnic religious and minority groups.

California State University's center for the study of hate and extremism found that biased crimes against various minorities and religious groups were up 20 percent since the election of Donald Trump. The majority of the crimes were against individuals in the Islamic or LGBT communities. Director Wray, the president has repeatedly posted tweets insulting various ethnic religious and minority groups. Most recently, he retweeted three videos by a discredited United Kingdom white separatist ultra nationalist political group. Videos which allegedly showed Muslims committing crimes.

In the tense environment and climate that we operate under and with the frequent vilification of minorities and the public's fear, do you believe that the president's rhetoric and actions such as these tweets have an impact on the rising hate crimes that we are seeing?

WRAY:

Congresswoman, I -- I try to stay out of commenting on the business of what's being said in social media. What I guess I would say is that as to the question of hate crimes statics and the apparent rise in hate crimes. As I think was noted in one of the earlier exchanges, in trying to collect that information, especially from state and local law enforcement, it's voluntary.

And so, we have challenges because it's sporadic as to which agencies will provide information and which ones won't and how accurate and what resources they have to collect the information. So its hard for us to get an accurate take on the rise, we do the best we can with the information we have.

JAYAPAL:

Director Wray...

WRAY:

I will say that my experience in dealing with communities as we do our investigation, is that it's very important that we have the trust and confidence of all the communities we serve throughout the United States and all the communities we serve and protect, especially not just because it's the right thing to do, but because it's the smart thing to do. We need to be able to encourage sources, which are the life blood of investigations. And we need people to come forward and speak up and tell us when they see something that is concerning so that if an investigation's appropriate, we can conduct one.

So I think the folks in the Bureau are acutely sensitive to that and intend to continue that practice and approach.

JAYAPAL:

I appreciate that. I -- I -- I feel like you're taking my questions right out of my mouth because I do think that it's important for you, as the director of the FBI, to be concerned about anything that hurts the trust that we have with our communities across the country that are helping in the FBI's efforts.

President Trump has previously warned that immigration from Muslim majority nations threatens the United States security. Do you share that view?

WRAY:

I am deeply concerned about global jihadist terrorism, which is a very real problem in this country...

JAYAPAL:

But do you -- but do you believe that Muslim majority countries and the immigrants that come from those countries are a threat to our security? And let me -- before you answer that, let me ask you if you know who said this quote. "Islam, as practiced by the vast majority of people is a peaceful religion, a religion that respects others. Ours is a country based upon tolerance and we welcome people of all faiths in America."

Do you know who said that, Director Wray?

WRAY:

Well, I'm not a hundred percent certain about the quote, but I -- if memory serves, it may be President George W. Bush shortly after 9/11.

JAYAPAL:

Very good. That's right. And so I would just ask, Director Wray, again, do you share the view that immigration from Muslim majority nations threatens the United States security?

GOODLATTE:

Time of the gentlewoman has expired.

The Director may answer the question.

WRAY:

Thank you, Mr. Chairman. What I would say is that an awful lot of our terrorism investigations do also involve immigration violations. So there is a -- a close nexus between immigration violations and counterterrorism investigations and an awful lot of the terrorist investigations we have involve global jihadist rhetoric, which is disproportionately concentrated in certain countries.

GOODLATTE:

The Chair recognizes the gentleman from Louisiana, Mr. Johnson, for five minutes.

JOHNSON:

Thank you, Mr. Chairman.

Director Wray, thank you for being here today. I have a number of questions on a variety of topics and we have limited time so let me get right into it. First, I have always found it interesting that Director Comey never sought to obtain the hacked DNC servers to -- to review any digital evidence or trails that can definitively prove or disprove the Russian hacking allegation.

Have you -- have you sought those servers and if not, why not?

WRAY:

The handling of that investigation, including access to servers or anything like that, those are investigative decisions made in the course of the Clinton e-mail investigation, which is now the subject of a rigorous outside independent investigation by the Inspector General and I'm waiting to see what he finds in order to decide what appropriate action might ensue from that.

JOHNSON:

Do you know if the Inspector General is seeking the servers or do you have any information on it?

WRAY:

I don't have any information on that.

JOHNSON:

The number two official on Mr. Mueller's team, former FBI General Counsel Andrew Weissmann, as you know, was just shown to have made biased comments against President Trump in e-mails sent to the since fired Acting-Attorney General Sally Yates. As a matter of general policy, what happens when employees at the FBI are shown to make biased comments, in the midst of an investigation on which they serve?

WRAY:

Well, it's -- it's -- really, it's hard to generalize. It depends on the situation, depends on how severe the bias, depends on lots and lots of different circumstances. So it's hard for me to make one sweeping statement. Certainly, in some instances, we would, as has been alluded to earlier, remove somebody from an investigation.

JOHNSON:

Who makes that decision? I mean, what's the criteria, is that ultimately your unilateral authority, or?

WRAY:

It wouldn't have to rise to my level. It would depend on the investigation, I would suppose.

JOHNSON:

With regard to terrorism, the Department of Homeland Security has recently indicated the threat environment in the U.S. is perhaps the most serious since the 9/11 attacks. And in your opening statement today, of course, you noted that the FBI's currently investigating about 1,000 ISIS-related threats in all 50 states. Is the threat evolving now that ISIS is losing ground in Iraq and Syria and has the threat grown as that organization has become more decentralized?

WRAY:

That's a very good question. I think what I would say is the threat is different. Some people would say is it better or worse. The good news is, you know, the Caliphate is crumbling and that's positive for all of us. The bad news is, ISIS is encouraging some of its recruits and potential recruits to stay where they are and commit attacks right in the homeland.

So in addition to the thousand or thereabouts ISIS investigations, which I would define as sort of ISIS-directed investigations, we have a lot of what we would call homegrown violent extremist investigations. Which are individuals more kind of lone wolf types who are motivated and inspired by ISIS to commit attacks and that's, I think, the threat that in our view is growing and not just in the U.S., but in a lot of our allied countries as well.

JOHNSON:

I wish we had time to unpack that further. But let me, let me ask you specifically regarding ISIS and current investigations, can you confirm for us today, that the Las Vegas killer, Steven Paddock didn't have any ties to international terrorism despite the fact that ISIS is claiming responsibility?

WRAY:

Well, I've -- I've seen the same claims of responsibility that you have Congressman. I would tell you that so far in our investigation we haven't seen any evidence to support those claims of responsibility.

JOHNSON:

Thanks for that. In September, I led a letter with 17 members of Congress from Texas and Louisiana to Attorney General Sessions to request a thorough investigation into Planned Parenthood Gulf Coasts' actions of selling aborted fetal tissue for financial gain. If indeed that activity is shown to have taken place, is that a crime?

WRAY:

I don't know the legal answer, as I said before, I consider myself now a reformed lawyer. But I will tell you that we are aware of the request and we have farmed it out to the appropriate field offices and parts of the Bureau to take a look at the information provided.

JOHNSON:

Last month we -- we got information the FBI requested from Senate Judiciary Committee, documents that were obtained from those abortion providers regarding that probe and so, on behalf of all of our delegations and those in the region, I want to thank you for that and we'll look forward to the outcome of it. I appreciate your being here and your service to the country sir. And I yield back.

WRAY:

Thank you, sir.

GOODLATTE:

The Chair recognizes the gentleman from New York, Mr. Jeffries for five minutes.

JEFFRIES:

Thank, Mr. Chairman.

Thank you, Director Wray for your service to the country. WikiLeaks has repeatedly published information designed to damage the United States. Is that correct?

WRAY:
I think that's correct.
JEFFRIES:
And there's reason to believe that WikiLeaks works closely with Russian intelligence agents and spies. Is that right?
WRAY:
I've seen some of the same information. Certainly, we're concerned about WikiLeaks.
JEFFRIES:
Donald Trump, Jr. had multiple conversations with WikiLeaks between September 2016 and July 2017. Is that correct?
WRAY:
That one I don't know, but I think now you're getting into territory that I believe is right in the heart of what the Special Counsel has on his plate.
JEFFRIES:
OK, for example I think on October 3rd, Donald Trump, Jr. asked WikiLeaks, "What's behind this Wednesday leak I keep reading about?" Are you familiar with that?
WRAY:
I'm not going to comment on anything that might be part of the Special Counsel's investigation.
JEFFRIES:
OK, and on October 12th WikiLeaks contacted Donald Trump Jr. saying, "Great to see you and your dad talking about our publications. And by the way, we just released Podesta e-mails part four."

Let me ask you this question, Donald Trump, Jr. never informed the FBI or other law enforcement agencies that a known Russian collaborator had been in communication with him about matters related to the United States presidential election. Is that right?
WRAY:
Again, Congressman, I'm not going to comment on anything that might be part of the special counsel's ongoing investigation.
JEFFRIES:
OK, well the apparent existence of a triangular relationship between the Trump campaign, Russian spies and WikiLeaks seems, to me, to be something we should all be deeply troubled about. Now, in 1974, the House Judiciary Committee adopted articles of impeachment against President Richard Nixon, correct?
WRAY:
That sounds right.
JEFFRIES:
One of those articles of impeachment related to obstruction of justice, correct?
WRAY:
That I don't remember specifically. It's been a while since I studied that episode.
JEFFRIES:
OK, 1998, more recently, the House of Representatives adopted articles of impeachment against President Bill Clinton, true?
WRAY:
Yes.
JEFFRIES:

And one of those articles of impeachment related to obstruction of justice, correct?
WRAY:
I believe that's correct.
JEFFRIES:
So, the president of the United States can commit obstruction of justice, isn't that correct?
WRAY:
Well, again, that gets into a legal question that I'm not going to try to take on here.
JEFFRIES:
OK. Sally Yates served as acting-attorney general in January prior to the confirmation of Jeff Sessions, true?
WRAY:
Yes
JEFFRIES:
And while serving as acting-attorney general, she warned the White House that national security adviser Michael Flynn could be a Russian asset, is that correct?
WRAY:
Again that's now you're into something that I think is part of the special counsel's investigation.
JEFFRIES:
OK. In four days after informing the White House that the Department of Justice was aware of Michael Flynn's indiscretions related to Russia, Donald Trump fired Sally Yates. Is that a fact?

WRAY:
Again, I don't want talk with something that might be wrapped up in the special counsel's investigation.
JEFFRIES:
OK, but she was fired on January 30th, by Donald Trump, true?
WRAY:
Yes, she was fired by the president, and I can't remember the exact date, but I don't have any reason to question your understanding of what the date is.
JEFFRIES:
OK, thank you. Preet Bharara served as a U.S. attorney for the sub district of New York when Donald Trump was first elected, correct?
WRAY:
Yes.
JEFFRIES:
And Donald Trump met with Preet Bharara on November 30th and told Mr. Bharara he could keep his job, is that true?
WRAY:
That I don't know.
JEFFRIES:
OK. Now, Preet Bharara's prosecutorial office in the Southern District of New York has jurisdiction over Trump Towers, correct?

WRAY:
Yes.
JEFFRIES:
JEIT RIES.
And at some point this year, it became clear that Preet Bharara office was investigating close allies of the Trump administration, correct?
WRAY:
That I don't know.
JEFFRIES:
It has been publicly reported that the president's lawyer, Marc Kasowitz warned Donald Trump this guy is going to get you. Is that true?
WRAY:
I have no idea whether that's true.
JEFFRIES:
Donald Trump fired Preet Bharara on March 11th, correct?
WRAY:
I know that he was, along with the other U.S. attorneys in place that were holdover U.S. attorneys, let go and but that date may be right, I don't know.
JEFFRIES:
James Comey was your predecessor as FBI director, is that right?
WRAY:

Well, he was my Senate-confirmed predecessor. Acting Director McCabe was in between.
JEFFRIES:
And he's a first rate widely regarded as a first rate talented law enforcement professional, true?
WRAY:
As I said earlier in response to a question, during my interaction with him, especially during the early 2000s, that was my experience.
JEFFRIES:
And in February, Donald Trump asked James Comey to drop the investigation into Michael Flynn, is that correct?
WRAY:
I don't know whether that's correct. I believe that's something that's part of the special counsel's investigation.
JEFFRIES:
Donald Trump also asked James Comey to bow down and take a loyalty pledge to the president, correct?
WRAY:
I have no idea whether that's true, and again, I don't want to comment anything that's subject to special counsel's investigation.
JEFFRIES:
And on March 20th, James Comey testified before Congress in publicly stated that the Trump campaign was under criminal investigation, is that right?
WRAY:

I don't know whether that's correct.
JEFFRIES:
FBI director James Comey led that criminal investigation into the Trump campaign, true?
WRAY:
Again, I'm not sure I can comment on that.
JEFFRIES:
Donald Trump fired James Comey on March 9th, is that correct?
WRAY:
I don't actually think I don't think it was March 9th.
JEFFRIES:
I'm sorry, May 9th.
WRAY:
May 9th.
JEFFRIES:
Is that correct?
WRAY:
I believe he was fired on May 9th.
GOODLATTE:
Time of the gentleman has expired.

JEFFRIES:

So Donald Trump fired Sally Yates without justification, fired Donald Trump (sic) -- fired Preet Bharara without justification, fired James Comey without justification. Feels like obstruction of justice, sounds like obstruction of justice, looks like obstruction of justice.

I think the American people, Mr. Chairman, can reasonably conclude it's obstruction of justice.

GOODLATTE:

One thing to conclude is the gentleman's time has expired.

And the Chair recognizes the gentleman from Arizona, Mr. Biggs, for five minutes.

BIGGS:

Thank you, Mr. Chairman and thank you, Director Wray for being here with us today.

I want to just ask some questions to follow up on some things that you have previously testified to today, particularly when Mr. Issa was talking talking to you and then several of the people got in on that exchange just a little bit.

One of the things you said, and I'm going to paraphrase part of it and then I'll quote part of it, you said, if there's undo political considerations -- if you find -- if the I.G. finds that there's undue political considerations at play in the original Clinton investigations, then the FBI would have to determine -- and then you said, "How to un-ring the bell." And I guess my question is -- multiple there. What did you mean when you said, "un-ring the bell?" And let's just start there.

WRAY:

It's hard for me to speculate about what I would do at that point. I think it would depend a lot on the particulars of what the Inspector General found. I would not rule out anything appropriate that would be in response to the Inspector General's findings. Sometimes there may be recommendations that come with the Inspector General's report, in my experience, so that's something we would take into account.

It could range from anything from changes to our policies, our structures. It could be personnel decisions that come out of it. There could be follow up that we need to engage in, as a result of things that we learn from the Inspector General's report. So there's -- it's hard for me to give kind of an exhaustive list, but those are a few of the kinds of things that I can imagine.

BIGGS:

Well, the first two things that you mentioned there were really kind of internal processes, personnel, maybe somebody needs to be corrected, maybe they need to be disciplined. Beyond that, though, I'm wondering if there's additional options that might include even re-opening the investigation, taking a harder look, and is that a potential option?

WRAY:

Well, I think what I would say to you there, Congressman, is something that I believe is true, really, in any situation, which is, if we find, for example, new information or new evidence that would cause us to want to reopen an investigation, assuming we don't have a statute of limitations problem or something, that's something we would consider.

And likewise, if the information we receive from the Inspector General suggested that that's something that would be appropriate, then that's something we would consider.

BIGGS:

And you also indicated that -- and is his name Mr. Strzok? I want to get the pronunciation right. I've heard it about five different ways today. Strzok, is that?

WRAY:

Strzok.

BIGGS:

OK, so, Mr. Strzok was reassigned and you said that wasn't a disciplinary move. It just seems like an odd lateral move. Are you telling me that's -- telling us all that that was a lateral move for him?

WRAY:

The individual in question was reassigned away from the special counsel investigation to the human resources department. I understand that that may sound, to some of you, like a demotion, but I can assure you that in a 37,000 person organization with a \$9 billion budget, and offices all around the country and -- and in 80 countries around the world, that I think our human resources department is extremely important and a lot of what they do is cutting-edge best practice stuff.

So, it's a very different kind of assignment, certainly, but that's why I don't consider it disciplinary or a demotion.

BIGGS:

OK, and so with regard to the attorneys that are on the Mueller team, did the FBI vet them at all and if so, what was the vetting process?

WRAY:

I am not aware of what vetting may or may not have been done in the staffing of Director Mueller's team. Of course, all FBI agents when they join, are subject to an excruciatingly detailed background investigation, and then over the course of their trajectories but should because of their access to classified information, there are follow-ups, sort of, re-up investigations that occur over the life of an agent's career. But as far as specific vetting, not sure exactly what you mean by that for purposes.

BIGGS:

Well, let's -- let's get to the heart of it. I won't mince words. So what we've talked about today is appearance of conflict or bias and everything from donating rather large sums of money to candidates, some of which have been, perhaps, even under investigation by the FBI at some point or another, communication widely critical of this administration, or highly supportive of another administration or candidates that, again, may have may have been under investigation at some point. What it -- what is the process there?

What -- is there an official process that that goes into determining whether someone is -- is compromised or has a bias in their investigation? Or is this -- like in the Department of Justice, when we had Attorney General Sessions here, he said, "Well, we don't have a process, it's up to each attorney to basically decide whether they have conflict of interest", which isn't the way it is in private sector, just so you know. So I'm wondering what -- what would be your process in determining whether was the bias was too great, because you said earlier...

GOODLATTE:

Time of the gentleman has expired.

Director can answer the question.

WRAY:

We don't do political scrubbing of our agents. And of course, a lot of the questions today have gone to prosecutors, which again, that's not a part -- we devote agents and staff to the special counsel investigation, but not to the prosecutor side.

GOODLATTE:

The Chair recognizes the gentleman from Illinois, Mr. Schneider for five minutes.

SCHNEIDER:

Thank you, and Director Wray, thank you for your time, your patience here in answering all of our questions and your service to our country. It is all very, very much appreciated. You started today -- you gave us a testimony this morning, a summary, 15 pages describing the programs and priorities of the FBI, of the bureau.

You don't mention in this at all some of the work you've talked about later, which is, protecting our elections. I think -- I don't know want to put exact words, but you talked about protecting the integrity of our elections and it's critical to the foundations of our democracy. In fact, election security is national security.

However, two months ago, Attorney General Sessions testifying before the Senate Judiciary Committee said the Department of Justice has not yet taken any actions towards protecting our elections from foreign interference. It would be a gross understatement to say that I was deeply concerned about his remarks when he came a few weeks later to this committee. I asked him what had been done and I was astounded at his answer to say, we hadn't done anything, but I was grateful that he said he would take action and work with us.

I understand that the FBI is making this a priority, that you have created a taskforce within the FBI. What was it that prompted the development of the taskforce? What void does that fill? What's its mission and who are its members?

WRAY:

Well, first off, I think, if I might, I think the fact that the Attorney General didn't mention the efforts that we have underway is simply a reflection of the fact that there's lots and lots of things that happen in a gigantic Justice Department and some of them may not have been briefed to him as promptly as we should have.

The Attorney General, I know, is -- cares deeply about this issue and in my view, is a great man and a great public servant. I will say that on the -- in the context of foreign influence in our elections, that was prompted in part by our concerns growing out of all of the dust up with the ICA that we knew from that combined with what we saw from talking with some of our foreign

partners that efforts to interfere, not just with our elections, but other countries elections, is a real thing.

We know that that was true not just in the last election, but that that's something the Russians have tried to do in prior elections, even before the last election.

SCHNEIDER:

They've done it before. We have to expect they'll do it again.

WRAY:

I think we all expect that and so, our foreign influence task force is a blend of people from the counter-intelligence division, the cyber division, the criminal division, and other parts of the Department. A lot of it is work that we were already doing, but I think putting them together in a single taskforce provides a -- it's a time-honored way to increase the focus, the discipline, the prioritization, the coordination, and it allows us to pursue those concerns with greater vigor and focus.

SCHNEIDER:

If I may -- you talk about doing that within the Bureau.

WRAY:

Right.

SCHNEIDER:

You've mentioned coordinating with DHS, but this is a complex issue that cuts across many agencies. How is the taskforce working with the other departments, the other agencies to make sure that we're prepared to protect the integrity of our elections next year?

WRAY:

We have a -- our taskforce has a variety of contacts with, not just DHS. I mentioned them because they're so critical to the election infrastructure in the country, but I didn't mean to leave out, in particular, other members of the intelligence community. There's regular contact there and I want to make sure I don't overlook our contact with our foreign counterparts where we're comparing notes there as well.

The state elections bodies which of course are important part of it as well, that happens really more indirectly through DHS and our coordination with DHS. And then, of course, as Congresswoman Handel knows well from her prior life, there are private companies that are an important part of the election infrastructure and we have some interaction with the private sector as part of this, as well.

SCHNEIDER:

What gives you the confidence that -- we're 11 months away from our next national election, primaries are starting in the couple months ahead. What gives you the confidence that we'll be able to protect our elections next year?

WRAY:

Well, what I can tell you is that I'm confident that we're working very hard on the issue. We're going to continue working very hard on the issue. We're going to be continually looking at how we can get even better at working on the issue, but I long ago gave up the idea of making predictions about whether or not we're going to bat 1,000, but that's our goal.

SCHNEIDER:

So let me close with the question I asked the Attorney General when he was here. Are you willing to work with the members of this committee? Will you commit to briefing us whether in public or in classified briefings? And can you give us a point of contact with who we should be communicating with in your department?

WRAY:

I'd be happy to follow up with your staff on that.

SCHNEIDER:

Thank you very much. I yield back.

GOODLATTE:

The Chair recognizes the gentleman from Florida, Mr. Rutherford, for five minutes.

RUTHERFORD:

Thank you, Mr. Chairman.

Director Wray, first let me say thank you for coming and appear before the committee today for quite a while. Thank you very much. Listen, your appearance here is -- is critical to us doing our job and holding the Federal Bureau of Investigations accountable for the people and -- and I know that's something that -- that you, as the newly appointed director, are also very interested in. And I have to tell you as one member of Congress, I'm very encouraged by the fact that you are now sitting in that chair.

So I want to start with the fact that, you know, as -- as a former law enforcement officer myself, I often thought about and still think about the perceived or actual politicization of law enforcement agencies by the acts of officers within our agencies. And -- and I share my colleagues' concerns regarding the private communications by FBI personnel who were tasked with conducting the Clinton investigation, and -- and certainly those types of biases and other forms of biases go against the ethics of the FBI and other law- enforcement agencies if and when they begin to affect the fear and influence the fear and enforcement of the law through political consideration.

And I know to earlier it -- it was -- it was mentioned. So, rather than repeat what my colleagues have all gone through, I want to ask the question, what is it -- how does the FBI fight against the partisan -- partisan bias that can naturally exist in agents -- we all know that. But specifically, how does the Bureau monitor your agents and whether that be over social media or other private messaging, does the FBI have a formal guidance or policy on how this is conducted -- just answer that one first, please.

WRAY:

Well, I think an in-depth answer would require more of a follow-on briefing of some sort, but I what I would say is that we try to address the kinds of concerns that you're highlighting, which are important to me too. I think we share that. We do it through everything from making sure that we recruit the right people, from making sure we train them in the 21 week training that I described earlier, we make sure that we have policies that remind them about the importance of playing it straight, going by the book...

RUTHERFORD:

Are there policies then that specifically address contacts that they can put out publicly, understanding their First Amendment rights, but also understanding the influence that it can have on -- on the reputation of the agency? And -- and -- and I understand until it begins to effective an investigation, which -- which I think in the in the case of Special Agent Strzok, it certainly did.

I mean, when we're looking at what was previously called the unprecedented actions, of not only giving immunity, but not recording potential criminal investigation -- depositions, that's -- that is unprecedented, I -- I think that that you would combine the two of those. To give

immunity is -- is -- is not unusual, and so, if I were to ask you, did anyone lie during the Clinton e-mail deposition would -- how would you answer that?

WRAY:

I'm not sure what deposition you're referring to, but I would say that questions about the handling of the Clinton e-mail investigation, and in particular, whether or not certain decisions made over the life of that investigation were in any way tainted or influenced, as you say, by improper considerations is something that has been referred to and is very deeply under investigation by the outside independent Inspector General.

RUTHERFORD:

Let me ask very quickly because my time is about to run out. So, the Inspector General has his investigation going, but does the FBI -- do you conduct your own internal investigation as well? I mean, surely it doesn't take an I.G. investigation to terminate an employee. That's certainly within your purview, correct, as a director?

WRAY:

Well, we have a process -- you know, these are career civil servants. We have a process that, and I said earlier, I prefer to ask questions first and then act later.

RUTHERFORD:

Exactly.

WRAY:

And in this situation, we would not normally be conducting a parallel internal investigation while the Inspector General is doing his and the reason for that is because, and this is something that is a best practice across investigations, we want to be sure that we're not doing something that would be viewed as interfering with his.

RUTHERFORD:

I understand.

My time is expired, sir.

GOODLATTE:

The committee is advised that we have votes on the floor. We have Director Wray, a great appreciation for the three hours and forty-five minutes you put in so far. We do have about a half dozen more members that will come back immediately after these votes, so you can get a bite to eat or whatever. I expect it will be 35, 40 minutes and we'll be back again to complete the hearing. And the committee will stand in recess.

(RECESS)

GOODLATTE:

The committee will reconvene. When the committee recessed we were in the questioning period with the director of the FBI, and the chair recognizes the gentlewoman from Georgia, Mrs. Handel, for five minutes..

HANDEL:

Thank you, Mr. Chairman and Director Wray. Thank you so much for being here. It's wonderful to see you. And I would just like to say that given your distinguished and exemplary record of service, I am on the optimistic side that under your leadership we really will see a heightened degree of integrity going forward in the agency, so I look forward to that.

I wanted to ask a couple of questions around terrorism and ISIS. You mentioned that in your opening testimony that the agency has some 1,000 active terrorism related investigations. How is that volume of terrorism investigative cases continuing or not continuing to strain the agency in terms of resources and your breadth of being able to cover other investigations?

WRAY:

It's a good question. We -- in addition to those thousand ISIS-related investigations, we have, you know, probably a closely similar number of what we would classify as homegrown violent extremists, which we would define as not so much ISIS directed, but ISIS inspired. You know, people -- lone wolves here who see sermons and videos and things like that, and decide they want to act.

And then of course we have quite a fair number still even now in 2017 of Al Qaeda-related investigations, Hezbollah-related investigations and a number of other terrorist groups. And then that's not even talking about the domestic terrorism investigations.

So our counterterrorism division and our JTTS, our joint terrorism task forces around the country are extremely busy. We have, I think, matured to a point where we're not having to redivert

agents from the more traditional criminal programs, except in rare situations where there's a sudden attack or something, and then we'll surge.

But there's no question we are spread very thin and we're doing the best we can with what we have.

I said to somebody recently, everywhere I turn in the country I find people who want the FBI to do more of something, and I have yet to find the person who has identified something they want the FBI to do less of, but I'd love to some day.

HANDEL:

There you go. You brought up homegrown terrorists and ISIS-inspired terrorists. What ability does the FBI have to actually investigate publicly available information that's posted online, specifically on various social media sites, and Facebook, et cetera, about individuals who would be terrorist sympathizers?

WRAY:

We do not, as a matter of course, just sit and sort of monitor social media. We do, however, in the context of specific properly-predicated investigations, look at all available sources, including publicly available information, which could include the kinds of information that you're describing.

So it -- it's definitely true that social media becomes a major part of a lot of our terrorism investigations. But we don't really have the means or, really, the authority to just kind of sit and troll...

Right.
WRAY:
social media, looking for problems.

HANDEL:

HANDEL:

But if you have a case that you're working, do you have the authority to further those investigations...

(CROSSTALK)
WRAY:
Yes, yes.
HANDEL:
OK. Good, good. All right. You mentioned also, earlier in one of the your responses, about many terrorist investigations are linked, also, to immigration violations. I wanted to talk about the diversity visa.
As you know, it has been reported that the suspect in New York City, attack on Halloween, entered the U.S. on a diversity visa. In the course of the investigations, can you just talk a little bit more about the abuse of the immigration system, in particular visa security issues that are being exploited by subjects who are or individuals who are the subjects of investigations, and are there changes to that process that vetting that you could recommend to us?
WRAY:
Well, I I think most changes to the immigration or visa program are, really, better directed to the Department of Homeland Security and the Department of State, which have the responsibility for those two aspects
HANDEL:
(OFF-MIKE)
WRAY:
of enforcement.
In the I think I can say this because it's public record in the charging documents. That, in the New York attack, the individual in question, although he did come in through the diversity visa

program, he radicalized -- at least according to him -- radicalized a little bit after he got here. In other words, he wasn't already radicalized when he came in, it -- it would appear.

Some of the visa concerns that we have, going forward, are as -- as the caliphate collapses and as fighters from overseas fan out to other countries, they could well end up in countries, for example -- visa waiver countries. And then -- and then end up in the U.S., right?

So a lot of people worry, "Well, are they gonna, when the caliphate falls, all come, you know, to the U.S.?" You know, another scenario that's a little more worrisome, and maybe a little more likely, is that they flee Syria or Iraq and go to some other country, some third country, and are there for a while, and then come into the U.S., maybe a year from now, 18 months from now, two years from now. And that's something that -- that concerns us.

HANDEL:

OK, great. Thank you. And my time is out, thank you.

I yield back, Mr. Chairman.

GOODLATTE:

Thank you.

The Chair recognizes the gentleman from Texas, Mr. Farenthold, for five minutes.

FARENTHOLD:

Thank you very much.

Director, thank you for being here. And I know this has been touched on a couple of times, and I just want to reiterate something that I hear regularly from my constituents in South Texas. And that's a concern, we have a special counsel investigating the Trump administration, but it seems like no one is addressing the Clinton administration.

I know the chairman touched on this, as do -- did some of the other questions. And I really don't have a question here, other than to reiterate that it is a pretty strong concern of a lot of the folks that I represent. And I know y'all don't comment on whether or not there is an ongoing investigation or is not.

But as we start seeing the results of the special counsel's investigations coming to fruition, with publicly-announced indictments in the light, if there are investigations going on with the FBI -- and I hope they are -- the time is -- is getting ripe to see some results for that.

And I think the other piece of that is, a lot of my constituents say it's not fair, we have a special counsel investigating one side and -- and not the other. So I just put that out there.

Now -- now that I'm finished on my soap box, I -- I do want to talk a little bit about Section 702. During our DOJ Oversight hearing a couple weeks ago with the attorney general, he indicated the DOJ finds it problematic to require a warrant from the FISC (ph) court before accessing or disseminating contents of communications that aren't related to foreign intelligence.

And I have a -- listen, I have a great deal of respect for Attorney General Sessions. But I have to say, I wasn't totally satisfied with the answer to this question.

So I want to ask you, again: Is it fair to say that requiring a court order to view content in limited circumstances -- after a 702 database was queried specifically to return evidence of a crime -- dismantles the 702 program? A national security tool designed to protect us from terrorists, not common criminals?

WRAY:

Congressman, the "dismantles" language, I think, comes from the Office of the Director of National Intelligence response to the bill. And that is the intelligence community's view about the bill in its totality. You know, all the different changes. Not just the querying part of it that you referred to, but some of the others.

We do believe, very strongly, that we are using the tool lawfully and appropriately, that -- that has been consistently found by the courts that have looked at the issue, and by the Privacy and Civil Liberties Oversight Board, and by all the different oversight mechanisms that have existed.

We do believe that starting to, when there is no constitutional requirement to do so -- and that is, in my mind, quite clear -- that adding additional burdens and hoops for agents to jump through at that really early stage, that's when 702 is so important. Is at the very early stage, when tips are coming in, we are getting flooded with leads and we're trying to evaluate, "Is this a lead that is something that is important?"

It may come in, it may turn out to be foreign intelligence information, it may turn out to be some other kind of crime. At that point, we don't know and all we want to be able to do is query, which is running a database check of information that we have already, constitutionally, in our possession.

FARENTHOLD:

Again, my concern is, I understand the need to protect us from crime. But the Fourth Amendment is in the Constitution for a reason, and I have a great deal of respect for that.

On a -- on a similar note, I've introduced legislation criminalizing improper unmasking. It's actually called the Wrongful Unmasking Prevention Act, which establishes a penalty of 10 years' imprisonment for anyone who knowingly makes an unmasking request for any reason other than to understand foreign intelligence information, to assess the importance of foreign intelligence information or to determine whether classified information is evidence of a crime which has been, is being, or is about to be committed.

The idea behind this is, you don't want folks unmasking stuff for political purposes, or to check up on their girlfriend or -- or their neighbor, or for some other improper reason. Now, obviously,

this is just a bill. But from an agency perspective, does the FBI now investigate unmasking claims that might be improper?

WRAY:

There are situations where the request could lead to an investigation. Merely somebody making a request -- an unmasking request -- and having it denied, for example, is not -- would not be enough. But if we have evidence that somebody obtained -- which would, in that case, for example, be classified information -- for an improper purpose, you know, that is something that we would investigate.

A lot of times, the unmasking concerns are linked to, and less about, the unmasking itself and more about a -- in my mind, a very serious issue, which is leaks of the information, whether it's through unmasking or something else. And that's something that we're trying to be very aggressive on.

The -- you know, my -- I think the department, the intelligence community, the FBI are open to working with you and the committee on the unmasking issue. I think, ideally, it would be separated from 702, which we think is an incredibly important tool...

FARENTHOLD:

That's fine. It's a separate piece of legislation.

WRAY:

... that (ph) we (ph) need (ph) to (ph) renew (ph). Yeah.

FARENTHOLD:

I see my time has expired. Thank you, Mr. Chairman.

GOODLATTE:

The Chair recognized the gentleman from Georgia, Mr. Collins, for five minutes.

COLLINS:

Thank you, Mr. Chairman.

Thanks for being, thanks for staying. As for the -- sometimes we get here a little bit later and (ph) we go earlier, many have left. But sometimes you get to stay to the end.

I think it's been good today because there was something that you had said earlier. The chairman brought it up, and I just -- with (ph) one from northeast Georgia, it's good to, you know, be back. I know you traveled to Gainesville and Judge Kelly's court, and everybody else up there for a while.

But I think the interesting thing, here, is something that was said earlier, especially about when asking for stuff -- and it was a determination I'm not going to share that here. And I think the question is, I would just have a -- a general question to start with. What is your belief -- personal belief -- in (ph) how much you have to cooperate with this committee?

WRAY:

My own view is that we should be trying to do everything to cooperate with this committee that we legally and appropriately can.

COLLINS:

OK. And -- and because you're -- when you come here, you're under oath, you're still under oath. It is something we take very seriously. But I've also been here five years. And there -- and some of the questions today -- and I (ph) want (ph) to put it in perspective because there's some things, I just want to put it for the record.

Is (ph) we have a good relationship, starting forward, because I think you bring a -- a great breath of fresh air, hopefully to this, you know, agency, as -- as I believe. My dad was a state trooper. I come from a law enforcement background. We've got to have this trust.

But just as a few years ago, right before I got here, in July 6th of 2011, in a draft letter that was circulated within the Department of Justice, a department official, a Faith Burton (ph), wrote, "I'd stay away from the representation that we'll fully cooperate in the future." This was in dealing with Fast and Furious.

So you've got to understand. The members up here, doing our constitutional job, are sometimes skeptical of what has been said here. And I have had an interested tete-a (ph), you know, back-and-forth with the former attorney general, with your former -- the former FBI director.

So I just have a few questions, if we could. One, is it possibly -- and recently, there's been some problems -- and I want to hear it (ph) from you -- of unprecedented leak of information about FISA wiretaps. We got into FISA a little bit ago. Specifically, there was a leak of information related to the FISA wiretap of Paul Manafort.

Leaking information about FISA warrants is a felony, is it not?

WRAY:
I'm sorry. Leaking information about FISA warrants
COLLINS:
(inaudible) FISA warrants is a felony. Is it not?
WRAY:
Yes. I would think it would be.
COLLINS:
What is the FBI currently doing to identify the leakers of that information?
WRAY:
Well, I'm not gonna comment on or confirm or deny the existence of any specific investigation. I will say that, when we we have, at the moment, quite a number of active investigations into unauthorized disclosures of classified information.
COLLINS:
Is it something you would say that you would put a high priority on? Finding out who leaks, and holding them accountable.
WRAY:
I believe that finding out I I will say that I believe that finding out who has leaked classified information is something that's extremely important. I will say, also, having been somebody who has had responsibility for a lot of leak investigations not just now, but when I was assistant attorney general and head (ph) of (ph) both Criminal Division and what's now the National Security Division, leak investigations are breathtakingly difficult to pursue.
COLLINS:

Well, I think maybe...

(CROSSTALK)

WRAY:

And so that doesn't mean we shouldn't -- does not mean we shouldn't pursue them. and, in fact, I am a big believer in the idea that we should, even if we may be pessimistic about our ability, ultimately, to be able to find somebody to charge.

Because the mere fact of bringing -- of conducting those investigations sends a strong signal that -- that we will not tolerate people leaking classified information.

COLLINS:

And -- and I agree with that. And I think that's -- that (ph) needs (ph) time (ph) because I think it's got to start with you. And if it doesn't start with you -- and I think, frankly, there's not been that leadership in that department for a while.

But let's go back to FISA. Because, earlier on, there was a discussion that you wouldn't -- it came across as, you're -- "We're not going to provide that," or "provide that in this setting," or we didn't have a right to that.

So I just have a few questions. So what information or documents related to FISA do you think the FBI can withhold from the committee?

WRAY:	
What	
COLLINS:	
Can it withhold FISA warrants?	

WRAY:

Well, I think there's a couple different stages of -- of cooperation here, right? So one is the question of what we can provide in an open setting. And then one is what we can provide...

COLLINS:

Well, let me -- let me help you out...

WRAY:
Right.
COLLINS:
because I just want to I want to get down because your time's valuable (ph), and mine. We'll just assume it's in the proper setting, proper format. But what I was concerned about was the way it was actually said earlier, was there may be some issues (ph).
So if properly asked for, a FISA warrant. Is there any reason why you withhold that information? Legally, that you can?
WRAY:
There are situations where information related to a FISA application involves sensitive sources and methods that, in my experience, are not shared with committees of Congress.

COLLINS:

Any (ph) information that has formed the basis for a FISA warrant? Or legal memorandum regarding FBI's interpretation of FISA?

WRAY:

Well, the -- the FBI's legal interpretation of FISA, unless it's asking for attorney-client privileged information, I would think it's something we could discuss with the committee.

COLLINS:

Again, I think that's the concern that I have. And look at this is, as the chairman said earlier -- and (ph) backing up the chairman, the jurisdiction of this committee on both sides -- this has become one of the biggest issues that we have here. And I've been here on different committees, asking different agencies, under a Republican administration, now, and a Democrat administration, is, there's a belief that you can withhold from this oversight -- and this is the primary, especially on FISA, it's (ph) the primary.

So I'll clear up the uncertainty you might have. The committee has the authority to demand any document or piece of information related to the FISA program, and there are many things that we would like to see and be a part of. And I think you've indicated your willingness to do that.

We need to continue that openness in this thing. Otherwise you're gonna continue to have the discussions and innuendo and everything else. Because, at the end of the day, this is a problem.

But my last question has one concern. You made a mention earlier, and I thought it was sort of interesting. You said that Mr. Strzok was not demoted or (inaudible) -- I'm not sure, frankly -- and this is just a good North (ph) Order (ph) boy (ph) looking at this -- how do you take the number two counterintelligence person, who is on one of the highest-profile and special investigative committees, that's been in a long time in this town, and take him and put him in a random slot at Human Resources.

It's not offensive to Human Resources. They've got a big job. But I don't think there was a pressing need for your number-two person, here, in counterintelligence -- who was on the highest-profile investigation going on this Hill -- to all of a sudden say, "You know, there's a big need in Human Resources. Let's move him over here."

I have a bigger concern that if it's (ph) some of the issues that have fallen out (ph) with Mr. Strzok, why would you put him in Human Resources, where he would have an oversight -- or even teach responsibilities of what other agents would be a part of? I think you need to be careful, maybe just from an example part, of how we say that that wasn't a demotion or a transfer or something that did not have proper -- at least on the appearance of what happened in this case.

And with that, Mr. Chairman, I yield back.

GOODLATTE:

The chair recognizes the gentleman from Pennsylvania, Mr. Marino, for five minutes.

MARINO:

Thank you, Chairman.

Director, it's good to see you again. It's always a pleasure.

I've got to tell you a little something, when I got out of high school, I didn't go right to college, but I was -- wanted to be an FBI agent. So I got a job many, many years ago as a clerk at the Department of Justice. I was there for a short period of time until we found out that I was colorblind, and would not make a very good agent if I couldn't tell the color of a car or the color of clothing.

So I came back home and worked in a factory for a while. When I was a district attorney and U.S. attorney, I was threatened a couple of times. And the FBI and the U.S. Marshals were right there to watch my back. But what was more important, they were there to watch my family during these threats. And I will never forget that, and I greatly appreciate it.

And I have the utmost faith in you and the bureau. We are part of the same honorable profession. You and Jim Comey and I worked very well together. We got a lot of good work done. And the agents and the staff of the Middle District of Pennsylvania, that would be Harrisburg, Scranton, and Williamsport, they made me look good. And I appreciate that.

I know how proffers work. I've used them many times. I know how immunity works. I know what a 302 report is, and how that works. I'm not -- let's put it this way, rarely, in my humble opinion, should we be using special or independent counsel. We know there is a strict criteria for that, if there is a conflict. And the reason is because I trust the 99.9 percent of our agents, the scientists, and staff a bit more than I trust Congress.

And I know you will follow the FBI and DoJ procedures, regardless of what happened in the past. If you ever need anything from me, don't hesitate to call upon me. Thank you very much for your service, and I yield back.

WRAY:

Thank you, Congressman Marino, I really enjoyed our time working in the department together. And I know you're committed to supporting law enforcement and it's very much appreciated.

GOODLATTE:

The chair thanks the gentlemen, and recognizes the gentlewoman from Alabama, Ms. Roby, for five minutes.

ROBY:

I thought I heard the chairman say since I was last I could go as long as I wanted to. But I won't. I will stick to the five-minute rule.

Thank you for your time spent with us today and I appreciate you staying through the last series.

Have you read the USA Liberty Act, which was our bill to renew Section 702 of the FISA Amendments Act, which this committee approved 27-8, last month?

WRAY:

I have -- I wouldn't say I reviewed it word for word, but I have read through it.

ROBY:

OK. And will you commit to working with this committee to reauthorize Section 782 in a way that protects Americans' civil liberties, as well as our national security?

WRAY:

I'm absolutely committed, in fact, eager to work with the committee to try to make sure that we get 702 reauthorized in a way that's not only constitutional, but that also protects our national security. Obviously, as you've gathered from some of my responses, I have very clear and very specific views about what that is. And I have tried very hard in order to be responsive to this committee to really get into the weeds with the agents about how we actually use 702.

I've actually sat at terminals with both kinds of agents, national security agents and criminal agents, in this role as director, rolling up my sleeves, looking at the screen, watching what happens when they tap the keyboard. So I feel like I have a pretty good handle on it. And I just implore the Congress to be really careful here, and I just -- I worry that we're heading down a road that we will all regret. And I just hope lives aren't put at risk as a result.

ROBY:

Well, I can -- I mean, I agree with you, as well. But I just want to make sure that we can continue to work together. And I've heard you say that, so thank you.

WRAY:

Yes, thank you.

ROBY:

As you well know, we have an epidemic of human trafficking in this country, including the trafficking of children. And the internet plays a huge role in that. Section 230 of the Communications Decency Act shields some websites from legal liability regarding content posted by their users.

I have serious concerns about this. Under existing law, do you believe that legal action can be taken against websites that enable -- that's a key word -- enable this horrible behavior?

WRAY:

Well, as I mentioned in some of the earlier questions in different contexts, I now consider myself a reformed lawyer, former lawyer, almost. So I would have to look closely at the law to study the law in this area. I will say that there are situations where we have been able to bring cases against

what I would call third parties for aiding and abetting some of the issues that we're talking about here, payment processors, things like that.

So maybe there's a scenario where that kind of approach would work. Certainly, I am deeply concerned, as I know you are, about human trafficking, especially with respect to kids, but not only kids. And as I mentioned in my opening, that's something that we are very aggressively pursuing. So I would be happy to look at -- and then have somebody sit down with you.

ROBY:

Yes, and I mean, we would welcome any of your thoughts or your recommendations on improving our laws. Of course, we have several bills in front of the Senate and the House today, where we are, again, trying to balance making sure that those that are enabling this type of horrific behavior are held liable, but at the same time, protecting innovation in the -- in the -- on the internet, and the use of the internet.

And so -- but I think at the end of the day, what we all can agree on is that we've got to come up with a solution that works so that we can protect these precious young people and adults from being subjected to this type of abuse.

So real quickly, given the decision by General Services Administration to scrap plans for the new FBI headquarters, I would be interested in your thoughts as to where we go from here. While the Obama administration requested \$1.4 billion for the construction, Congress appropriated \$523 million, leaving an \$882 million funding gap.

So the total cost of the proposed headquarters was a hefty \$2.5 billion. And I understand that the existing building is in a state of disrepair. However, I would be interested in your ideas about how to reduce costs.

WRAY:

Well, we are actively -- when I say went back to the drawing board, we're considering all options. We are working very hard with GSA, and I think there's a report due to another committee in late January about some of our progress. We're looking not just at different building permutations and locations, but also at funding permutations, which I think could be a change maybe in the way we go about getting to a good answer to try to look at how we might pay for it first, and then see what flows from that as opposed to the other way around.

I will tell you that as somebody who has now spent four months back in the building, I remember the last time I was in the building in 2005, the place seemed like it was not in good shape then, and I can assure you, it has not gotten better in the years that pass. So we do need to find a solution. I think the men and women of the FBI deserve a building that's in better shape than this one is.

But I'm not ruling out any particular approach to that. But I do want to make sure we get an upgrade.
GOODLATTE:
If the gentlewoman would yield, I completely agree with the director on that. And we have some excellent real estate in Virginia that would
(LAUGHTER)
GOODLATTE:
purpose exceedingly well, just across the river.
ROBY:
Well, my time has expired. But I just want to take the opportunity to tell you and your family, thank you for your service to our country. But also all of the men and women who serve at the FBI. We really appreciate all the hard work that is done. So thank you for being here.
WRAY:
Thank you, and on behalf of the men and women of the bureau and their families, we appreciate it.
GOODLATTE:
Thank you, Ms. Roby.
Director Wray, thank you very much. I do have one additional question. Have you personally seen any of the struck texts that we have been talking about here at length today?
WRAY:
Yes.
GOODLATTE:

Can you characterize for us your impression of whether those do indeed constitute the kind of political -- going beyond just expressing opinion, but political activism that does not befit an FBI agent?

WRAY:

Mr. Chairman, I really would prefer not to do that at this point. There is -- because of the investigation that's ongoing and it's also because of whatever might come out of that, I don't think it would be responsible for me to be offering an opinion at this stage.

GOODLATTE:

I respect that.

Let me just close by saying that I very much appreciate your testimony here today, not just that you're here for five hours, but that you have answered questions with a great deal of candor when you can. And I respect the fact that you can't answer all of our questions, particularly in a public setting, regarding some ongoing investigations.

However, I think that members of the committee have made it very clear that there are deep concerns about what has been happening at the FBI, not under your watch, but now under your responsibility to repair that reputation of what I think -- truly think is the world's finest law enforcement organization. And that's going to take your testifying before committees and responding to various inquiries. But it's also going to take more than that.

It's going to take some action. There are going to need to be some personnel changes. We have had a number of names in high-ranking positions at the bureau mentioned in passing here, without getting into tremendous details. Again, the inspector general's investigation and the investigation being conducted by this committee will probably reveal more that needs to be done there.

I also think that a renewed effort to be fully responsive and timely responsive to the inquiries of this committee and other committees, but particularly this committee, which has oversight responsibility, and in lieu of a second special counsel, is conducting an investigation that if there were a special counsel, we would not feel the need to engage in that.

We need to have the information that we're requesting, and we need it promptly. And we have no intention of interfering with the investigation being conducted by the inspector general. In fact, we think his investigation is very important and very helpful, and we have been working with him in that regard.

So those sorts of actions, and probably some changes in protocol regarding how agents conduct themselves and how they view some of the actions that have been revealed in the media and in during the hearing today do not reflect well on the department and create in the minds of many

Americans a mis-impression of how the overwhelming majority of FBI line agents and others conduct themselves.

But because these people are in positions of great responsibility at the highest levels of the agency, I think that those who stay need to get some new protocols on how to represent the agency. Some need to go. And all of this needs to be made available to the appropriate committees that are investigating.

I thank you very much, sir. If there is anything you would like to add, we welcome it.

With that, the hearing is concluded. And -- oh, one more thing. We will be submitting additional questions in writing, based upon some of the questions that members submitted, and some issues that have come up that we think may be more suited to submitting questions to you in writing. We hope that you will answer those promptly, as well.

Again, I thank you for your participation. Without objection, all members will have five legislative days to submit additional written questions for the witness or additional materials for the record.

And this hearing is adjourned.

List of Panel Members and Witnesses PANEL MEMBERS:

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REP. BRAD SCHNEIDER, D-ILL.

WITNESSES:

CHRISTOPHER A. WRAY, DIRECTOR, FBI

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